

# Exhibit 11

Exhibit 11

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

MICHAEL ERWINE; )  
Plaintiff, )  
vs. ) Case No.:  
CHURCHILL COUNTY, a political ) 3:18-cv-00461-RCJ-WGC  
subdivision of the State of Nevada; )  
CHURCHILL COUNTY SHERIFF BEJAMIN )  
TROTTER; and DOES 1-10 inclusive; )  
Defendants. )  
\_\_\_\_\_)

RECORDED DEPOSITION OF BENJAMIN DANIEL TROTTER

Taken on December 4, 2020

At 10:29 a.m.

RECORDED VIA VIDEO CONFERENCE

UNDER STIPULATION BY ALL PARTIES

1 APPEARANCES:

2 For the Plaintiff: LUKE BUSBY, ESQ.

3 316 California Avenue

4 Reno, Nevada 89509

5  
6  
7 For the Defendants: KATHERINE F. PARKS, ESQ.

8 THORNDAL ARMSTRONG

9 6950 S. McCarran Blvd. Suite B

10 Reno, Nevada 89509  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 3

1	INDEX			
2	Witness	Direct	Cross	Redirect
3	MR. BUSBY	5		
4				
5				
6	EXHIBITS			
7	Number	Description		Page
8	EXHIBIT 1	Job Description ERW0019		17
9	EXHIBIT 2	Appointment ERW0026		25
10	EXHIBIT 3	Employee Evaluation Report ERW0029		25
11	EXHIBIT 4	Booking Sheet ERW0037		31
12	EXHIBIT 5	Email ERW0038		33
13	EXHIBIT 6	Letter to Sheriff Trotter ERW0039		40
14	EXHIBIT 7	Sheriff Trotter Letter ERW0041-0042		45
15	EXHIBIT 8	Incident Form ERW0043		52
16	EXHIBIT 9	Observation Sheet ERW0044		52
17	EXHIBIT 10	Screen Grab ERW0045		56
18	EXHIBIT 11	Jabines Report ERW0047		69
19	EXHIBIT 12	AXON Printout ERW0048		70
20	EXHIBIT 13	Employee Action Notice ERW0051		71
21	EXHIBIT 14	Letter of Separation ERW0052		71
22	EXHIBIT 15	Memorandum 10/16/2016 ERW0053-0055		78
23	EXHIBIT 16	Fax 12/06/2016 ERW0064-0065		98
24	EXHIBIT 17	NOT USED		
25	EXHIBIT 18	Ethics (Detention) ERW0466-0467		101

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 4

1	INDEX		
2	EXHIBITS		
3	Number	Description	Page
4	EXHIBIT 19	Use of Force (Jail) ERW0531-0534	101
5	EXHIBIT 20	Records Retention and Maintenance	102
6	EXHIBIT 21	Ron Wenger email	102
7	EXHIBIT 22	Voice Recording (not attached)	
8	EXHIBIT 23	Not Used	
9	EXHIBIT 24	Matthew Maes Affidavit	105
10	EXHIBIT 25	Andrew Allen Beaulieu Affidavit	106
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

1 MR. IVEY: We are now on the record in the matter  
2 of Michael Erwine v. Churchill County, et al. My name is Mark  
3 Ivey. I'm the videographer and deposition officer. I work for  
4 E-Depositions, LLC, located at 730 Sandhill Road, Suite 105,  
5 Reno, Nevada 89521. Today's date is December 4th, 2020, and the  
6 time is 10:29 a.m. This is the video recorded deposition of  
7 Judge Benjamin Trotter, and is being recorded by video conference  
8 under stipulation by all parties. Judge Trotter, can you please  
9 raise your right hand? Do you solemnly affirm that the testimony  
10 you are about to give will be the truth, the whole truth, and  
11 nothing but the truth?

12 MR. TROTTER: I do.

13 MR. IVEY: Thank you, sir. Can you please, just  
14 as we spoke earlier, just hold your ID up to the camera real  
15 quick just so we have that for the record as well? Perfect.  
16 Thank you very much, sir. Can you please state your full name  
17 for the record.

18 MR. TROTTER: Benjamin Daniel Trotter.

19 MR. IVEY: Thank you, sir. The electronic audio  
20 and visual recording of this deposition will be the official  
21 record. A transcript will be created from this recording by  
22 E-Depositions, LLC. Would all attorneys present, please identify  
23 themselves, their firm, anybody with them, and the party they  
24 represent beginning with the party noticing this proceeding.

25 MR. BUSBY: Good morning. Appearing for the

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 6

1 plaintiff, Luke Busby, and I'm joined by the plaintiff, Michael  
2 Erwine.

3 MS. PARKS: Katherine Parks, on behalf of  
4 Churchill County and Ben Trotter, of Thorndal Armstrong Delk  
5 Balkenbush & Eisinger. There is no one with me here in my  
6 office.

7 MR. IVEY: Thank you to all parties. Okay, Luke.  
8 The floor is yours.

9 MR. BUSBY: Okay. Thank you.

10 DIRECT EXAMINATION

11 BY: Mr. Busby

12 Q: Good morning, Mr. Trotter. Thanks for coming  
13 today.

14 A: You're welcome.

15 MR. BUSBY: Again, this is Luke Busby, and I'll be  
16 taking your deposition today. I just want to start off by  
17 explaining some of the ground rules and the deposition process.  
18 I'll be asking you questions, and we're going to record your  
19 answers, and your answers are given under oath under penalty of  
20 perjury the same as if you were testifying in a court. Do you  
21 understand that?

22 MR. TROTTER: Yes.

23 MR. BUSBY: And your testimony may be used later  
24 in this proceeding at the trial as evidence. Do you understand  
25 that?

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 7

1 MR. TROTTER: Yes.

2 MR. BUSBY: Okay. If at any time you don't  
3 understand one of my questions, please let me know and I'll be  
4 glad to explain the question or rephrase it. If you answer one  
5 of my questions without asking for clarification, I'll take that  
6 to mean you understood what I meant; fair enough?

7 MS. PARKS: Luke, you're fading in and out on me.  
8 I can't hear you very well.

9 MR. TROTTER: I -- and I agree. At the end of  
10 your sentences, I'm not able to hear them. And I'm maxed out on  
11 my volume, so --

12 MR. BUSBY: All right. I'll try and speak up.  
13 How's that?

14 MR. TROTTER: Okay.

15 MR. BUSBY: Better?

16 MR. TROTTER: Much better.

17 MR. BUSBY: Okay. So I'll repeat that. If at  
18 anytime you don't understanding one my questions in whole or  
19 part, let me know. And I'll be glad to explain it or rephrase  
20 it. But if you don't ask for clarification on one of my  
21 questions, I'll take that to mean you understood what I meant;  
22 fair --

23 MR. TROTTER: Okay.

24 MR. BUSBY: -- enough?

25 MR. TROTTER: Sure.



MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 8

1 MR. BUSBY: And the same rule applies if you don't  
2 hear one of my questions. I'd be glad to repeat it, just let me  
3 know. Okay?

4 MR. TROTTER: (No verbal response.)

5 MR. BUSBY: And there will be times today in the  
6 middle of one of my questions that you want to jump in and  
7 answer, but I just ask that you let me complete my question  
8 before you respond. And I'll try my best to do the same for you;  
9 sound good?

10 MR. TROTTER: Okay.

11 Q: All right. In what city do you currently reside?

12 A: Fallon, Nevada.

13 Q: Okay. How long have you lived in Fallon?

14 A: Probably 25 years.

15 Q: Okay. And how old are you?

16 A: 48.

17 Q: Okay. And so why did you move to Fallon?

18 A: I came with a job. I was hired by the Fallon  
19 Police Department in August '95.

20 Q: Okay. So your moving to Fallon corresponded with  
21 your police career, then?

22 A: Correct.

23 Q: Okay. And has your entire career as a police  
24 officer been in Fallon community?

25 A: Yes.

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 9

1 Q: All right. Have you ever been sued before?

2 A: No.

3 Q: Okay. And your capacity as sheriff, you were never  
4 sued?

5 A: No.

6 Q: Okay. Have you ever been deposed before?

7 A: No.

8 Q: All right. Can you tell me generally what you did  
9 to get ready for this deposition?

10 A: Talk to Ms. Parks.

11 Q: Okay. I'm not asking for any of your  
12 communications with your counsel, but did you talk to anybody  
13 else?

14 A: No.

15 Q: Okay. Have you discussed Mr. Erwine's lawsuit with  
16 anyone else besides your attorney?

17 A: Uh, my wife.

18 Q: Okay. I'm not going to ask any questions about  
19 that either.

20 A: Okay.

21 Q: Okay. Can you briefly describe your educational  
22 backgrounds?

23 A: Uh, high school graduate, um, and I have four  
24 college degrees. Highest level is a Master in Business  
25 Administration.

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 10

1 Q: Okay. Can you tell me what each of your degrees  
2 is, and when you got it, and where?

3 A: Um, 1995, I got a general studies degree at  
4 Sheridan College in Sheridan, Wyoming. Uh, around the same time  
5 I also got a police science degree, uh, both of them associates  
6 at the same college.

7 Um, and then I got a bach- -- completed my bachelor, that would  
8 be 2009 through Western Governors University and then completed  
9 my master's in Coleman. I completed it right before I ran for  
10 sheriff. So that was, like, early 2010, or -- uh, I don't have  
11 that in front of me, so --

12 Q: Okay. So what is your bachelor's degree in that  
13 you got in --

14 A: Uh --

15 Q: -- 2009?

16 A: Bachelor of finance.

17 Q: In finance?

18 A: Yes.

19 Q: Okay. And in 2010, you mastered. What is that in?

20 A: Business administration.

21 Q: Okay. Okay. Do you have any specialized education  
22 or training in law enforcement besides what you've already  
23 described?

24 A: Um, yes. I -- I, uh, went through what they call  
25 Rural Executive Management Institute. That was in Salt Lake.

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 11

1 That was right after I became sheriff so sometime in 2011. Um, I  
2 also went through, what'd they call it? The Northwestern  
3 University School of Police Command, um, did that online.  
4 I don't remember the exact year; it was sometime when I was  
5 sheriff. And I went -- and I graduated from the FBI National  
6 Academy, um, that would be, like, 2015 or something like that.

7 **Q: Okay. Can you tell me about what -- what you**  
8 **learned at the FBI National Academy?**

9 A: I took, uh, several classes. One about computer,  
10 um, security, cybersecurity. Uh, health and wellness. Uh, there  
11 was a fitness thing. There was, like, a homicide investigation.  
12 Um, don't -- I didn't know I was going to be asked, or I'd had my  
13 transcript here. Um --

14 **Q: It's okay. And --**

15 A: And there was a couple other classes.

16 **Q: Okay. All right. I'm not asking for an exhaustive**  
17 **list, just the general idea of what you studied there.**

18 MS. PARKS: Luke, you're -- you're fading out on  
19 me, and I can't hear the end of your questions.

20 MR. BUSBY: Okay. So I'm going to try and move  
21 this a little bit closer. Let's see.

22 MR. TROTTER: And I did hear -- I did hear your  
23 last question, so --

24 MR. BUSBY: Okay. How is that, Kathy?

25 MS. PARKS: That's -- I think that's okay.

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 12

1 Q: Okay. So have you ev- -- ever had any specialized  
2 education or training in constitutional law?

3 A: I mean, I'm sure I've -- I've had plenty of  
4 exposure to constitutional legal topics over the years, but I  
5 can't specifically remember anything that was a class about it.

6 Q: Okay. And I just want to run through your career  
7 as a peace officer quickly. What was your first job as a police  
8 officer?

9 A: I was a patrol officer for the Fallon Police  
10 Department.

11 Q: Okay. And what year did you start?

12 A: 1995.

13 Q: Okay. And how long were you at Fallon PD?

14 A: I worked there for 16 years.

15 Q: And --

16 A: Uh, a little less than 16 years.

17 Q: Okay. So it sounds like you left Fallon PD around  
18 2010, '11; is that correct?

19 A: Yes. I started with the sheriff's office in 2011,  
20 January 2011.

21 Q: And that's the Churchill County Sheriff's Office,  
22 right?

23 A: Yes.

24 Q: Okay. All right. You were there in 2011. What  
25 did you do when you were first hired by the Churchill County

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 13

1 **Sheriff's Office?**

2 A: I was the sheriff. I ran for office and was  
3 elected in 2010, and started in early January 2011.

4 Q: Okay. And how long were you sheriff at Churchill  
5 County?

6 A: I was reelected once, so I did eight years.

7 Q: Okay. So it sounds like you left in 2019; is that  
8 correct?

9 A: I started judge in 2019, yes.

10 Q: Okay. And what kind of judge are you?

11 A: I'm a justice of the peace.

12 Q: Okay.

13 A: In other words --

14 Q: That's --

15 A: -- the catchall.

16 Q: JOP in Churchill County, right?

17 A: Yes.

18 Q: And do you remember the month you started that?

19 A: January 2019.

20 Q: Okay. And that's your current position?

21 A: Yes.

22 Q: Okay. All right. So you indicated you have some  
23 knowledge of constitutional law; is that correct?

24 A: You asked if I had had some training and --

25 Q: Yeah.

1 A: -- so I'm -- I'm sure I've been exposed to it over  
2 the years.

3 Q: Okay. Can you explain to me your understanding of  
4 due process under the federal constitution?

5 MS. PARKS: Objection. Calls for a legal  
6 conclusion. Calls for expert testimony. Go ahead.

7 MR. TROTTER: Okay.

8 A: Um, due process means people get a fair shot at,  
9 um, um, you know, trial by jury. Um, a Miranda warning falls  
10 into that, giving people understanding, mainly letting people  
11 understand their rights prior to being subjected to, um,  
12 investigation or interrogation.

13 Q: Okay.

14 A: Um, uh, court procedure is essentially the due  
15 process section that I'm currently working in right now.

16 Q: Okay.

17 A: Um, that's just an off the cuff.

18 Q: Are you finished?

19 A: Uh, sure.

20 Q: Okay. Do you think that the government owes a  
21 person due process of law before depriving them of life, liberty,  
22 or property?

23 MS. PARKS: Objection. Calls for a legal  
24 conclusion. Calls for expert testimony from this lay witness.

25 A: And an answer to the question, I believe that

1 that's, um, dependent on the circumstances.

2 **Q: Okay. What circumstances?**

3 MS. PARKS: Same objections.

4 A: Uh, from a lay perspective, um, certain people are  
5 probationary, um, certain people work for as at will. For  
6 instance, administrators in a sheriff's office, or -- or at  
7 Fallon Police Department are typically -- they're at the will of  
8 whoever the, uh, um, chief is.

9 Or in this Fallon Police Department circumstances, they're at the  
10 will of, essentially, the mayor and city council. Um, so there's  
11 really not a lot of due process when you're at will would be my  
12 understanding of that.

13 **Q: Okay. Please describe your understanding of the**  
14 **due pres- -- process clause of the Nevada constitution?**

15 A: I would have to look at it. I don't -- I haven't  
16 reviewed that in some time.

17 **Q: Okay. So when you were the sheriff in Churchill**  
18 **County, were you in charge of personnel matters for the deputies**  
19 **who worked for the sheriff's office?**

20 A: Sure.

21 **Q: Okay. And have you ever -- are -- are you familiar**  
22 **with the provisions of Nevada revised statutes 289?**

23 A: I have read it.

24 **Q: Okay. Have you ever heard Chapter 289 referred to**  
25 **as the police officers' bill of rights?**



MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 16

1 A: I have.

2 Q: Okay. And what's your understanding as to whether  
3 police officers in Nevada are entitled to the protection provided  
4 in NRS Chapter 289?

5 MS. PARKS: Objection. Calls for an improper  
6 hypothetical from this lay witness. You can answer.

7 Q: And Sheriff Trotter, from time to time your counsel  
8 may objects. And unless she directs otherwise, after she's  
9 finished with her objection, please go ahead and answer the  
10 question.

11 A: Okay. Um, my understanding is that all peace  
12 officers are covered by Chapter 289.

13 Q: Okay. Can you please tell me your understanding of  
14 why it is that Mr. Erwine is suing you?

15 A: Well, based on the, uh, complaint, um, seems like  
16 he believes that he was not given due process, uh, prior to his  
17 termination, or prior to his resignation.

18 Q: What's your understanding of whether he's alleged  
19 that you also defamed him?

20 MS. PARKS: That he what?

21 MR. TROTTER: Yeah, I didn't hear that.

22 Q: Whether you defamed him?

23 A: Whether I defamed him?

24 Q: Yes.

25 A: I do understand that his, uh, complaint, um,

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 17

1 indicates that he thinks that, yes.

2 Q: What's your understanding of the allegation that  
3 you and the sheriff's office intentionally interfered with his  
4 ability to get a job in the future, interference with prospective  
5 employment?

6 A: I understand that's his complaint or concern. Um,  
7 my understanding of it is I strongly disagree.

8 Q: Okay. Your understanding is that you disagree?

9 A: Yes.

10 Q: Okay. What -- but what's your understanding of why  
11 Mr. Erwine is suing you?

12 A: Because he believes that he was deprived of due  
13 process, um, unlawfully or unrightfully, um, uh, separated from  
14 the sheriff's office.

15 Q: Okay. So there have been some exhibits that I  
16 provided to your counsel and that Mr. Ivey has. Do you have  
17 those exhibits in front of you?

18 A: Yes.

19 Q: Do you have them in electronic format?

20 A: Yes.

21 Q: Okay. Let me go ahead and ask you some questions  
22 about those exhibits. I'd like you to take a look at what's been  
23 marked as Exhibit No. 1.

24 A: Okay.

25 Q: Okay. Do you recognize this document?

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 18

1 A: Yes.

2 Q: Okay. What is it?

3 A: That's a job description for a detention deputy.

4 Q: Okay. And is this the job description for the  
5 position that Mr. Erwine had at Churchill County?

6 A: I'm not sure it was exactly the same, but I'm not  
7 sure it was not. So yes, this is a job description the County  
8 would post those positions under.

9 Q: Okay. And do you recall or do you know when Mr.  
10 Erwine started at Churchill County?

11 A: Uh, when he what?

12 Q: When he -- when he began his employment with  
13 Churchill County?

14 A: Um, I would think the time around the end of 2015,  
15 beginning 2016.

16 Q: Okay. Did you hire Mr. Erwine?

17 A: Yes.

18 Q: Okay. Did you conduct a background investig- --  
19 investigation of Mr. Erwine before you employed him?

20 A: Yes.

21 Q: And based on that investigation did you determine  
22 he's eligible for employment at Churchill County?

23 A: Yes.

24 Q: Okay. Do you recall what his qualifications were,  
25 generally?

1 A: Um, not off -- I don't have that information in  
2 front of me, but, um, I do remember that he had, I believe, gone  
3 through the, um -- maybe the Western Nevada College, um, police  
4 academy.

5 Q: Okay.

6 A: So he would have had a CAT 1 and CAT 3 post.

7 Q: Okay. So he had police officers' standard of  
8 trainings certifications of various sorts; is that right?

9 A: Yes.

10 Q: And I -- I'm -- I'm sorry to -- I'm not trying to  
11 quiz your memory. I'm just asking what you -- what you recall of  
12 Mr. Erwine. I assume you had multiple deputies working for you  
13 at the sheriff's office when you were there; is that correct?

14 A: Yes. There was -- I think, we had 47 sworn.

15 Q: Okay. And how many deputies would you hire -- hire  
16 a year?

17 A: It varied by year. Some years, uh -- at one point,  
18 in fact, when I hired Mr. Erwine, I was doing security in the  
19 downstairs of the Justice Court 'cause we had lost a few to  
20 Sparks. And, um, so I hired several that year, and I --

21 Q: Okay.

22 A: -- was doing the background checks on them while I  
23 was sitting in that post.

24 Q: Okay. And were you the only person at the  
25 sheriff's office who would do background investigations of

1 **potential hirees?**

2 A: Uh, not the only one.

3 **Q: Okay. Who else would do that work around the time**  
4 **Mr. Erwine was hired?**

5 A: I'm trying to remember. I think, at one point, I  
6 have had, uh, Tracey Ricks maybe did one or two. Um,  
7 Investigator Paul Loop had done one or two. I -- I did most of  
8 them.

9 **Q: Okay. Can you tell me what kind of process you**  
10 **would go through in doing a background investigation on a**  
11 **potential hiree?**

12 A: Well, um, first of all, you -- when you're hiring  
13 them, first of all, we do -- we do the fitness -- physical  
14 fitness test. Then we do a written test. You have to pass each  
15 -- each in sequence. Um, then we do an oral board. And those  
16 who pass the oral board, we would give a background packet.  
17 Um, we first run a preemptory criminal history on them after  
18 they'd signed a waiver, and we'd give them a background packet.  
19 Um, it was 20 pages or so that they have to hand -- hand to  
20 complete and return to us. And then it's essentially contacting  
21 references, contacting former landlords, um, former employers,  
22 uh, things of that sort --

23 **Q: Okay.**

24 A: -- just essentially inquiring about them and -- so  
25 --

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 21

1 Q: You mentioned you'd require applicants to sign a  
2 waiver?

3 A: Yes. Uh, if we were -- when we were gonna run a  
4 criminal history, we'd have them sign a waiver just saying that  
5 we could do that criminal history on them.

6 Q: Do you recall whether that waiver included any  
7 provisions related to disclosure of any information that the  
8 sheriff's office obtained in the course of doing their  
9 investigation to third parties?

10 A: I don't have -- I don't have the waiver in front of  
11 me, so I don't really remember that --

12 Q: Okay.

13 A: -- exactly.

14 Q: Do you recall whether -- I'm sorry, go ahead.

15 A: I don't remember it exactly.

16 Q: Okay. Do you recall whether you had a policy about  
17 providing background information obtained during the course of an  
18 investigation of potential employees and third parties?

19 A: I don't remember what the policy was on that. It  
20 might have been a County policy, too.

21 Q: Are you aware of any provisions in Chapter 289  
22 related to the dis- -- disclosure of information obtained about  
23 --

24 A: No.

25 Q: -- potential employees?

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 22

1 A: I'd have

2 MS. PARKS: Wait. I didn't --

3 A: Sorry.

4 MS. PARKS: I didn't get the end of Luke's  
5 question. He was fading out again.

6 Q: Did you -- or are you aware of any provisions in  
7 NRS Chapter 289 related to disclosure of information that you  
8 obtained during the course of doing background investigation of  
9 potential employee of the sheriff's office?

10 A: I'm not, specifically.

11 Q: Okay. All right. So would -- do -- when you were  
12 doing a background investigation on a potential employee, if  
13 there were other law enforcement agencies that they had worked  
14 bo- -- for before, was it your practice to contact those law  
15 enforcement agencies?

16 A: Yes.

17 Q: Okay. And would you request documentary  
18 information from those law enforcement agencies?

19 A: Uh, sometimes.

20 Q: Okay. When would you request documentary  
21 information?

22 A: Um, you know, usually, they were such short calls.  
23 Law enforcement agencies would just simply verify and refer me to  
24 HR, um, for whatever entity it was. But I don't really remember  
25 if I specifically ever did request, but I think that I could have

1 requested things, um, on backgrounds.

2 Q: Okay.

3 A: I just don't recall if I ever really did. Um --

4 Q: Would you ask whoever you spoke to you at a former  
5 agency of a prospective employee what they thought about the  
6 performance of that potential employee?

7 A: I would try.

8 Q: Would you receive calls from agencies where your  
9 former employees were applying for new jobs?

10 A: For my former employees?

11 Q: So I'm asking: When you -- when an -- an employee  
12 left the Churchill County Sheriff's Office, like a sheriff's  
13 deputy and applied for a new job somewhere else, would you  
14 receive calls from those agencies when they were doing background  
15 investigations of your former employees?

16 A: Uh, I have received calls on those, yes.

17 Q: Okay. Are you the person at the Churchill County  
18 Sheriff's Office that would take those calls when they came in?

19 A: Uh, I would assume. Um, I'm the -- I was the head  
20 guy.

21 Q: Okay. Would you, as a general practice, share  
22 information or your opinions on your former employees with other  
23 agencies where they were seeking new jobs?

24 A: No. My typical practice was, I could verify --  
25 save them a phone call. I'd verify that this person had in- --



1 had indeed worked for us from whatever date to whatever date. If  
2 they wanted anything further, I'd refer them to HR.

3 **Q: Okay. What was the sheriff's office practice about**  
4 **sharing employee files with other agencies?**

5 A: When another -- when an employee left the sheriff's  
6 office, I was very consistent about this. I would, within a day  
7 or two of their departure, collect all their training, all of  
8 their personnel file, um, any of those, and I would send the hard  
9 copy over to human resources at the -- at the, uh, Churchill  
10 County Human Resources office.

11 And, uh, actually, I'll just for openness, I'll explain that when  
12 we did, um -- when I had a personnel file -- in fact, I did this  
13 when -- in my first couple of weeks as sheriff, I went through  
14 and scanned everyone's personnel file so that we had a readily  
15 accessible, um, electronic version of it for doing evaluations  
16 and such.

17 Um, part of my practice when somebody would leave is I would  
18 remove all of that electronic stuff from our database, uh, and  
19 send the hard copies over to human resources. I did this within  
20 a couple of days of any employee who left. So sheriff's office  
21 had no access to any of that after the fact.

22 **Q: Did you not have access to it, or was it just**  
23 **stored somewhere else?**

24 A: I -- I mean, I'd have had to go to human resources  
25 to get it. So human resources would have had copies of that.

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 25

1 Q: Okay. But you would been -- you would've been able  
2 to obtain those copies if you requested them, for example?

3 A: I could have, yes.

4 Q: Okay. They just weren't stored at the sheriff's  
5 office; is it correct?

6 A: Correct.

7 Q: Okay. All right. So I'd like to turn to what's  
8 been marked as Exhibit No. 2. Okay. All right. Do you  
9 recognize this document, Mr. Trotter?

10 A: Yes.

11 Q: Okay. What is it?

12 A: This is the oath. Um, I almost invariably  
13 personally attended the oaths of new hires. And we did this at  
14 the County Clerk's Office so that they can have an official  
15 record of the oath.

16 Q: Okay. So -- and you -- it contains the standard  
17 oaths that a law enforcement officer would -- would take when  
18 they -- they get hired from an agency like Churchill County  
19 Sheriff's Office; is that correct?

20 A: Yes.

21 Q: Okay. So when you hired Mr. Erwine, you felt he  
22 was qualified to be a police officer; is that right?

23 A: Yes.

24 Q: Okay. All right. I'd like to turn to what's been  
25 marked as Exhibit No. 3. Okay. Do you recognize this document,

1 **Mr. Trotter?**

2 A: Yes.

3 **Q: Okay. What is it?**

4 A: Well, this is a standard evaluation form for the  
5 County. Um, this form was done -- appears to be about four  
6 months after Mr. Erwine was hired.

7 **Q: Okay.**

8 A: There was 90 -- about a 90-day evaluation that the  
9 County requires of any new employee.

10 **Q: Okay. Do you recall the -- the cycle of employ- --**  
11 **employee evaluation reports for a newly hired deputy at the**  
12 **Churchill County Sheriff's Office?**

13 A: You know, I recall we did 90 day and then annuals.  
14 Um --

15 **Q: Okay.**

16 A: -- but I did see something where it mentioned that  
17 nine months, and I -- frankly, I don't -- you'd have to check  
18 with human resources, but I don't believe we ever did one of  
19 those.

20 **Q: I'm sorry. I didn't hear you.**

21 A: I don't believe we ever did a nine-month evaluation  
22 on an employee. I just don't recall ever seeing that.

23 **Q: On -- on any employee or just Mr. Erwine?**

24 A: On any employee.

25 **Q: Okay. All right. I want to ask you some questions**

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 27

1 about -- about what's been marked as Exhibit No. 3, which you've  
2 already identified. And this is to be clear, Mr. Erwine's per-  
3 -- his performance evaluation, basically?

4 A: Yes.

5 Q: Okay. And do you recall who authored this -- this  
6 evaluation?

7 A: Um, in looking at it, it looks like, um, it was --  
8 at that time, it was Deputy Chris Thorn and Sergeant Ron Bell are  
9 the names that are on the signature line. And I can mainly tell  
10 because of their, uh, call number.

11 Q: Okay. And so was Deputy Thorn the person who was  
12 ob- -- observing Mr. Erwine since the date of his hire at the  
13 Churchill County Sheriff's Office?

14 A: Um, I think he was field training him at the time.

15 Q: Okay. Do you know how long Deputy Thorn was  
16 training Mr. Erwine at the time he completed this evaluation?

17 A: Uh, I don't.

18 Q: Okay.

19 A: I mean, somewhere on the evaluation, I believe,  
20 there was a date where they changed field training officers. I  
21 think it's --

22 Q: Okay.

23 A: I -- I thought I read something when I was looking  
24 at these exhibits.

25 Q: Okay. So you looked at these exhibits before your

1 deposition; is that correct?

2 A: Yes. I just did yesterday.

3 Q: Okay. So if you could turn to -- do you see those  
4 little numbers at the bottom right beginning with "ERW"? Judge  
5 Trotter, do you see those numbers?

6 A: Oh, yes. This --

7 Q: Okay.

8 A: -- file stamp -- the stamps -- Bates stamps?

9 Q: Right. I'm going to refer to documents by their  
10 Bates number when I -- when I ask you about them first because --

11 A: Sure.

12 Q: Okay. So on what's been marked as Bates number  
13 "ERW30," there's a "Job Knowledge" section there. Do you see  
14 that?

15 A: Yes.

16 Q: Okay. And it -- there's an indication there that  
17 Erwine was struggling with procedures regarding inmate meals?

18 A: I see that.

19 Q: Okay. And to an outsider, you know, I don't really  
20 understand what that means. Can you explain to me what the  
21 problem was there?

22 A: Uh, I'm not sure what the problem was, but I can  
23 tell you the inmates were served meals three times a day. And at  
24 the jail that -- where Mr. Erwine worked at that time, um, that  
25 required pushing a little cart around this, um, facility and

1 handing out meals. And, um, I never did participate in the meal  
2 hand-out process, so I don't know exactly how it went.

3 Q: Okay. How about "ERW31"? There's some -- the --  
4 the first box there, I believe it's "professionalism." There was  
5 some -- there's an indication that there was some problems with  
6 accountability. Do you see that?

7 A: I see that.

8 Q: Okay. And you already reviewed this document. So  
9 can you explain to me what's your understanding what the account-  
10 -- accountability issue was with Deputy Erwine?

11 A: Uh, my understanding, and that is something I've  
12 heard outside of just the evaluation, was that he would not  
13 accept responsibility when he'd make a mistake.

14 Q: Okay. And who did you hear that from?

15 A: Uh, my captain would -- uh, Captain Matheson. We  
16 communicated pretty regularly about various things in the jail,  
17 and that would have been one of those that would have been  
18 something that got to me.

19 Q: Okay. Was Captain Matheson in charge of the jail?

20 A: He was the captain over what we called support  
21 bureau. So he was over the jail and dispatch --

22 Q: Okay.

23 A: -- and the civil division.

24 Q: Was there anyone below Captain Matheson who ran the  
25 day-to-day operations of the jail?

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 30

1 A: The sergeants and the deputies.

2 Q: Okay. Any sergeants in particular at the time when  
3 Mr. Erwine was employed at the Churchill County Sheriff's Office?

4 A: I think we had three sergeants. We had Sergeant  
5 Jesse Nuckolls, Sergeant Ron Bell, and Sergeant Shawn Summers.

6 Q: Okay. All right. So do you -- how long was  
7 Sergeant Summers working at the Churchill County Sheriff's  
8 Office?

9 A: Uh, he retired after I left, which was 2019. I  
10 think he retired maybe at the beginning of this year. He had to  
11 have had 20 -- at least -- it's gotta be around 25 years at that  
12 time. Maybe a little more.

13 Q: Okay. So he was there the entire time that you  
14 were at the Churchill County Sheriff's Office, right?

15 A: Yes. I did not hire him. He was hired by two  
16 sheriff's prior to me.

17 Q: Okay. All right. So just turning to the overall  
18 evaluation of Mr. Erwine's employment in Exhibit No. 3 at the  
19 bottom of page 31. He got a -- an "F" rating; is that right?

20 A: Yes.

21 Q: Okay. And what does an F rating mean?

22 A: It stands for fair.

23 Q: Okay. Okay. And it says here that his overall  
24 performance is fair, "Deputy Erwine arrives for his shift early  
25 and his uniform is always neat and clean. He'd be rated a lot

1 higher and further along in his training program if it was not  
2 for his issues with accountability. Accountability has affected  
3 every area in his training program. Deputy Erwine has received  
4 the training, tools, and mentoring to start a successful career."  
5 Is that right? Sheriff Trotter; is that right?

6 A: Um, that's what that reads, yes.

7 Q: Okay. And this -- it says that this evaluation was  
8 dated -- is it "March 9th of 2016. "?

9 A: It looks like it on there, yes.

10 Q: Okay. And you signed it on "March 10th of 2016,"  
11 right?

12 A: Yes.

13 Q: Okay. But he continued to work for the sheriff's  
14 office for several months after that; is that correct?

15 A: Yes.

16 Q: Okay. So obviously, based on what you saw here in  
17 this evaluation report, at the time you saw it, you didn't think  
18 that this constituted grounds to terminite [sic] -- terminate Mr.  
19 Erwine; did you?

20 A: Correct.

21 Q: Okay. All right. So I'd like you to turn to  
22 what's been marked as Exhibit No. 4 here.

23 A: Okay.

24 Q: Do you recognize this document?

25 A: Yes.



MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 32

1 Q: Okay. What is this?

2 A: This is a standard, uh, face sheet for a booking of  
3 an inmate. And this one happens to apply to a "Andrew Beaulieu,"  
4 or -- I'm not sure how to pronounce the name.

5 Q: I think it's -- we been saying Beaulieu.

6 A: Beaulieu?

7 Q: But I think we all will know who you're talking  
8 about no matter how you say it. So do you remember this inmate  
9 at all?

10 A: No. I mean, I -- I remember the incident, um, the  
11 allegations, but I don't remember the inmate. Never knew him.

12 Q: Okay. When you -- when you say "the allegations,"  
13 what do you mean?

14 A: Uh, the, um, allegations that were brought on by,  
15 um, Mr., um, Erwine.

16 Q: Okay. Against who?

17 A: Uh, I think it's been against the sheriff's office,  
18 uh --

19 Q: Okay.

20 A: -- or -- or against staff at the sheriff's office.

21 Q: Okay. It wasn't just the deputies who were  
22 involved in the situation with Mr. Beaulieu; was it?

23 A: Uh, I don't recall.

24 Q: Okay. So do you -- do you know why Mr. Beaulieu  
25 was in the jail on the night in question?

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 33

1 A: Uh, from reading the, uh, information, um, it looks  
2 like he was arrested for a vandalism.

3 Q: Okay. Do you know anything about Mr. Beaulieu's  
4 backgrounds?

5 A: Mr. -- how -- what are you saying the name is?

6 Q: Beaulieu.

7 A: Beaulieu? Uh, no, I don't know anything about him.

8 Q: Okay. Have you ever met him?

9 A: You know, I've met thousands of people 'cause I run  
10 for office three times now, and -- so I may have knocked on his  
11 door. I wouldn't specifically remember.

12 Q: Yeah. That was an inartful question on my part. I  
13 guess what I should say is: Do you recall ever meeting Mr.  
14 Beaulieu?

15 A: No.

16 Q: Okay. All right. So I would -- I want you to take  
17 a look at what's been marked as Exhibit No. 5.

18 A: Okay.

19 Q: Do you recognize this document?

20 A: Not necessarily, but I may have seen it in the  
21 past.

22 Q: Okay.

23 MS. PARKS: It's only -- an it's only what you  
24 recall. You're not required to guess.

25 A: At this point, I'm gonna say I don't recall

1 necessarily reading this until it showed up in the exhibits.

2 Q: Okay. Do you know who Zachary -- Zachary White is?

3 A: No.

4 Q: Okay. When you read this, does the situation  
5 that's described here seem to fit with any other situation that  
6 occurred at the jail with which you are familiar?

7 MS. PARKS: Objection. Vague and ambiguous.

8 A: Um, it looks, uh -- what I can say is that the, uh,  
9 jail that Mr. Erwine worked in and that -- that we used to be in,  
10 um -- if you were in the padded cell -- we had one padded cell  
11 that was essentially located right in the center of that jail,  
12 and there's no soundproofing. Um, it was really -- very old jail  
13 --

14 Q: Okay.

15 A: -- of 40-some years old when we moved out of it.  
16 And, um, so inmates quite frequently had their good night sleep  
17 disturbed by individuals that were put in the padded cell for  
18 their own protection.

19 Q: Okay. So I guess -- do you see the date there?  
20 "October 8th, 2016"?

21 A: Yes.

22 Q: Are you aware of any other incidents that occurred  
23 at the jail on that same date? Around that same time?

24 A: Uh, this was the same date, I believe, that Mr.  
25 Beaulieu was in the cell.

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 35

1 Q: Okay. Does the description provided in this  
2 document seem to match allegations about what happened to Mr.  
3 Beaulieu at the jail that night?

4 A: Uh, it matches what seems to have been the  
5 incident, um, loudness and, uh, issues with an individual in a  
6 padded cell.

7 Q: Okay. Do you see where it says here, "For  
8 two-and-half to three hours, a man in the blueroom begged for  
9 water while the deputies made jokes about him and antagonized  
10 him."? Is that correct?

11 A: I see that.

12 Q: Okay. Do you think they were referring to Mr.  
13 Beaulieu there?

14 A: Uh, based on the date and the, uh, time,  
15 potentially.

16 Q: Okay. Do you see where it says, "The deputies  
17 refused to give him water or make his allowed phone call to make  
18 bail."? Is that right?

19 A: I see where it says that, yes.

20 Q: Okay. All right. So -- okay. Are you familiar  
21 whether Mr. White ever filed a grievance about what occurred with  
22 Mr. Beaulieu on the night in question, October 8th, 2016?

23 A: No. I don't believe so. This would have been  
24 what's called a kite. It's complaint from an inmate to the  
25 captain. This would have been the initiation of any grievance if

1 he did, and I believe this was the only thing that was filed.

2 But once again, I don't recall ever seeing this.

3 Q: Okay. Did you ever conduct an investigation as to  
4 what happened with Mr. Beaulieu on, you know, October 8th, 2016  
5 at the jail?

6 A: We did verify or verified the facts and the  
7 information on the next exhibit, um, about checking the, uh,  
8 inmate. Well, not the next exhibit. It was Exhibit 9. Um, I  
9 did not do that. But yes, um, the inf- -- the allegations were  
10 looked into.

11 Q: Okay. By who?

12 A: It would've been Captain Matheson.

13 Q: Okay. Did the sheriff's office ever respond to  
14 this kite by Mr. White?

15 A: I don't know.

16 Q: Okay. If the sheriff's office had responded to  
17 this kite, would there be a record of it at the sheriff's office?

18 A: Probably, yeah. Um, uh, typically, if -- it was  
19 very rarely that I wouldn't respond necessarily to a kite. Um,  
20 it's, typically, handled by the administrator over that, uh,  
21 bureau. Um --

22 Q: And --

23 A: -- and I --

24 Q: -- do you what -- I'm sorry. Go ahead.

25 A: I -- I would expect that, had I responded, it would

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 37

1 be kept in that inmate's, uh, jacket.

2 Q: Off the cuff, are you familiar with the policy at  
3 the sheriff's office for retaining kites and grievances from  
4 inmates at the jail?

5 A: Not off -- not off the top of my head, so --

6 Q: Okay. Do you have a general understanding of  
7 whether there is such a policy?

8 A: I understand record of retention when it comes to,  
9 uh, bookings and -- and things of that sort.

10 Q: Okay.

11 A: And I have -- and mainly, I was refreshed by, uh --  
12 my memory was refreshed by seeing your exhibit.

13 Q: Okay. And what's your understanding of the policy  
14 behind document retention policies for inmates and how they're  
15 treated at jail, such as the Churchill County Sheriff's Office?

16 A: Um, the only thing I have specific knowledge of is  
17 what was in your exhibit on, um, records retention policy.

18 Q: Okay. But I'm asking you what's your -- your  
19 thoughts about why such policies exist?

20 A: I'd have to make -- be making an assumption on why  
21 they exist, but I would expect you would wanna, um, retain  
22 information on use-of-force issues and things of that sort.

23 Q: Okay.

24 A: Um --

25 Q: And why would you want to retain that information?

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 38

1           A: Um, I guess potentially for -- uh, and here I am  
2 guessing. As I have just said --

3           MS. PARKS: You're not required to guess. It's  
4 what you know.

5           MR. TROTTER: Okay.

6           A: So I don't know why they exist. I'll just go with  
7 that, why they have retention policy on those type of things  
8 exists.

9           Q: Okay. Do you think it's a fair statement to say  
10 that it's important to keep records of what happens at a jail in  
11 case there is a dispute over whether an inmate was treated  
12 properly at the jail?

13           MS. PARKS: Objection. Relevance. Improper  
14 hypothetical to this lay witness, fact witness.

15           A: Yes. I think there's some valid -- validity to  
16 keeping records.

17           Q: So it's -- an inmate claims he's mistreated at the  
18 jail. The Churchill County Sheriff's Office keeps records so it  
19 can show that it complied with appli- -- applicable rules and  
20 regulations of how inmates are -- are supposed to be treated; is  
21 that right?

22           MS. PARKS: Same objections.

23           A: Yes.

24           Q: And do you know what those records include?

25           MS. PARKS: Objection. Vague and ambiguous.

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 39

1 A: Um, uh, I would say that, that would be -- very  
2 much dependent on the circumstance.

3 Q: Okay. If you knew that an inmate had a -- had made  
4 you aware of a potential claim against the jail, would you  
5 disregard records? Have that inmate mistreated at the jail?

6 MS. PARKS: Objection. Relevance. Improper  
7 hypothetical to this witness.

8 A: I would never ignore information if I was -- I  
9 would not ignore information if I was, uh, um, looking into an  
10 objection, or, uh -- not an objection, sorry, into a complaint.  
11 I apologize.

12 Q: Inmates routinely sue prisons and jails for how  
13 they treated them, right?

14 MS. PARKS: Objection. Relevance.

15 A: I've heard about suits.

16 Q: Okay. Are you aware of any suits against the  
17 Churchill County Sheriff's Office from inmates at the time you  
18 were there?

19 MS. PARKS: Objection. Relevance. You mean ever?

20 MR. BUSBY: When he was employed there?

21 MS. PARKS: Objection. Relevance.

22 A: I'm trying to remember, but I don't recall any  
23 suits when I was there.

24 Q: Okay. Do you recall whether Mr. Beaulieu  
25 threatened to sue about how he was treated at the jail the night



1 he was there?

2 A: I never heard that he had threatened to sue.

3 Q: Okay. All right. I'd like to take a look at the  
4 next exhibit, which has been marked as Exhibit No. 6.

5 A: Okay.

6 Q: Sheriff Trotter, do you recognize this exhibit?

7 A: Um, yes.

8 Q: Okay. What is it?

9 A: This is a statement written by Deputy Thompson  
10 about the Beaulieu situation.

11 Q: Okay. And do you recall why Deputy Thompson  
12 authored this?

13 A: I'm gonna need to look at my memo, I believe. I'm  
14 not sure if i asked for it. Um, uh, yes, it appears -- it  
15 appears that I had had Sergeant Summers have Thompson do one of  
16 these.

17 Q: Okay. And do -- so was it routine practice for you  
18 to write memorandums about situations that occurred with inmates  
19 at the jail?

20 A: If there was an alleg- -- alleged issue, we would  
21 certainly want to, um, have it explained.

22 Q: Okay. So what's your understanding of what the  
23 issue was with Mr. Beaulieu?

24 A: My understanding is that Mr. Beaulieu was highly  
25 intoxicated, um, uncooperative, which is typically what led --

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 41

1 what would lead to someone being placed in the padded cell. Um,  
2 he was there for -- he was in the padded cell it seems about five  
3 or six hours.

4 I'd have to look at that check log. Um, and Mr. Erwine  
5 apparently came in and, uh, took off- -- took issue with how the  
6 deputies had allegedly, uh, treated him or deprived him or  
7 something of that sort.

8 **Q: Okay. Do you know what Mr. Erwine's concerns were?**

9 A: That he had not received water for a couple hours,  
10 um --

11 **Q: Okay.**

12 A: -- which was the primary one that I'm familiar  
13 with.

14 **Q: Okay. Are inmates entitled to receive water if**  
15 **they requested it?**

16 MS. PARKS: Objection. Improper hypothetical to  
17 this witness.

18 A: Um, everybody is entitled to receive water.

19 **Q: Okay.**

20 A: Um, the circumstances may not necessarily allow  
21 that, specifically in a padded cell situation where you have an  
22 inebriated, uncooperative individual who may have subsequently  
23 been cooperative at a later time when another employee came in  
24 and first encountered them.

25 **Q: Okay. So the first paragraph of Exhibit 6 states**

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 42

1 that Beaulieu was verbally aggressive towards them; is that  
2 right? Do you see that in the last sentence of the first  
3 paragraph of the Exhibit 6?

4 A: Yes.

5 Q: Okay. What do you think that means?

6 MS. PARKS: Objection. Calls for speculation on  
7 the part of this witness. He was not present.

8 Q: I'd be glad to rephrase. What was your  
9 understanding of what that meant when you read this --

10 A: Um --

11 Q: -- the first time?

12 A: -- that the -- that the defendant, or the inmate,  
13 was yelling, cussing, uncooperative, wouldn't answer questions.  
14 Those are the type of things that typically lead to somebody  
15 being considered verbally aggressive, possibly threatening.

16 Q: Okay. So -- so here it indicates in the third  
17 para- -- the sird [sic] -- third sentence of -- of paragraph 2  
18 that when Deputy Thompson returned to the booking cage, he was  
19 yelling again and he wanted water; is that right?

20 MS. PARKS: Are you asking him if that's what the  
21 document states?

22 MR. BUSBY: Yeah. I'm asking if he see that in  
23 the document.

24 A: I see that line.

25 Q: Okay. So -- and the next sentence states, "Deputy

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 43

1 Erwine came on shift and made contact with Beaulieu around 6:07  
2 hours. He asked Beaulieu if he wanted water several times to  
3 which he was also told 'fuck off'," right?

4 A: I see that.

5 Q: Okay. Do you know if there was a video recording  
6 system in the jail at the time Mr. Beaulieu was in custody there?

7 A: There was.

8 Q: Okay. Was it recording this interaction between  
9 Beaulieu and the deputies?

10 A: Uh, the video would have certainly been recorded.  
11 The videos were running all the time.

12 Q: Okay. Would it record video and audio?

13 A: Um, if I remember right, the, um, audio  
14 specifically around the booking cage had to be manually turned  
15 on. Uh, so I don't know if there was audio at this specific  
16 incident.

17 Q: Okay. Did you ever review audio or video of this  
18 specific incid- -- incident?

19 A: I -- I did not.

20 Q: Okay. So it looks like in the third paragraph --  
21 I'd like you to just read that so I don't have to read it to you.  
22 I just want to ask you some questions about it. So can you take  
23 a look and let me know when you're finished reading it?

24 A: Okay. I've read it.

25 Q: Okay. So based on what you just read, does it

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 44

1 appear that Erwine seemed to be pointing out some issues with how  
2 Mr. Beaulieu was treated at the jail?

3 A: Here's a Mr. Erwine was pointing out issues he  
4 believed or perceived existed.

5 MS. PARKS: Right. I'm just going to object that  
6 that's vague and ambiguous with respect to whether or not Deputy  
7 Erwine pointed this out to anybody. That's my objection.

8 Q: Okay. And it -- it says here that Mr. Erwine --  
9 Deputy Erwine spent 30 to 40 minutes reviewing the videos; is  
10 that correct?

11 A: That's what it says.

12 Q: And you never looked at the videos?

13 A: No.

14 MS. PARKS: Objection. Asked and answered.

15 Q: Okay. I'd like you to take a look at the last  
16 paragraph on the page marked "ERW39." Do you see where it states  
17 there, "After booking Beaulieu, I heard him whisper to Erwine  
18 that he wanted to talk to him. Erwine escorted him to the  
19 kitchen and talked to him for several moments."?

20 A: I see that.

21 Q: Okay. Do you have any idea what Beaulieu and  
22 Erwine discussed?

23 A: No.

24 Q: You have no knowledge of that?

25 A: No.

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 45

1 Q: Okay. So do you see at the bottom there in the  
2 last paragraph above the signature where it says -- the last  
3 sentence, "When Sergeant Summers came on shift, I went back to  
4 his office to talk to him about the incident because I felt  
5 uneasy about how Deputy Erwine had handled everything."?

6 A: I see that.

7 Q: Okay. Did you ever talk to Deputy Thompson about  
8 why he felt uneasy about how Erwine handled everything?

9 A: I did not.

10 Q: Okay. All right. So I'd like you to turn to  
11 what's been marked as Exhibit No. 7.

12 A: Okay.

13 Q: Okay. Do you recognize this document?

14 A: Yes.

15 Q: Okay. What is it?

16 A: This is a report, or, I guess, memo from Sergeant  
17 Shawn Summers about the same incident.

18 Q: The incident involving Mr. Beaulieu?

19 A: Yes.

20 Q: Okay. All right. So just backing up for a moment.  
21 As -- when you were sheriff, what was your expectation about how  
22 a deputy should handle a situation where they observed another  
23 deputy at the jail treating an inmate in a way that he feels  
24 appropriate or lawful?

25 MS. PARKS: Objection. Relevance. Improper

1 hypothetical.

2           A: Okay. So I can tell you that, uh, we have a chain  
3 of command. You have deputy, potentially he may have a field  
4 training officer. That, uh, field training officer would have a  
5 sergeant. The sergeant would have a captain. The captain would  
6 have a sheriff. Um, however, every new employee that I brought  
7 in, I would talk to when I'd be taking him over to give him the  
8 oath about my open-door policy.

9 So if they didn't believe that their concern was being answered  
10 appropriately at the sergeant level or even the captain level,  
11 they were welcome to come to me. In fact, they could come to me  
12 before they ever went to them.

13 And if I believed it needed to go back down to the level, the  
14 proper level, many times I sent people back down to their  
15 sergeant or their captain. And that was how I handled it. I  
16 would not tolerate the kind of behaviors that were -- that Mr.  
17 Erwine has alleged for a minute, if I was to know about them.

18           **Q: Okay. Just I'm having a pop up here. Okay. So**  
19 **according to this -- this letter from Sergeant Summers, he was**  
20 **approached by Deputy Thompson after the incident involving Mr.**  
21 **Beaulieu; is that right?**

22           A: I'm not sure where you're seeing that, but --- oh,  
23 yes. I see that in the first paragraph. Okay.

24           **Q: Okay.**

25           A: That's what it says.

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 47

1 Q: I'm just trying to get a time- -- a timeline  
2 together here about what happened.

3 A: I see that.

4 Q: Okay. So Deputy Thompson spoke with Sergeant  
5 Summers. And then I think it's the -- these paragraphs are kind  
6 of bunched together, but the first paragraph, after which there  
7 is a space, it says, "Prior to Deputy Erwine leaving the shift, I  
8 pulled him into my office. And I asked him if he had any issues  
9 with the way things were handled. He relayed to me that he was  
10 worried about a lawsuit." Do you see that?

11 A: I see where that's written, yes.

12 Q: Okay. So this indicates that Deputy Erwine relayed  
13 to Sergeant Summers that he had some concerns about Mr. -- how  
14 Mr. Beaulieu was treated; is that right?

15 A: That seems to be the gist.

16 Q: Okay. And this is dated "October 8th, 2016,"  
17 right? It's the same day that the incident involving Mr.  
18 Beaulieu occurred; is that right?

19 A: Yes.

20 Q: It also it says, at the bottom, I think it's the  
21 fifth paragraph there, "He has no authority at all in his current  
22 position to view/review videotapes and consult with inmates about  
23 their care and custody." Do you see that?

24 A: I see where that's written, yes.

25 Q: Okay. So did Mr. Erwine lack authority to review



MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 48

1 video of inmates and how they were treated at the jail?

2 A: Not specifically.

3 Q: Okay. So -- so if a deputy hears from an inmate  
4 that he was treated improperly or unfairly by another deputy  
5 previously in the day, it would be inappropriate for that deputy  
6 to go and review video to verify the claims of the inmate?

7 A: I believe there is a correct procedure for that, a  
8 correct method of handling that. And that would be to go to your  
9 supervisor, not to initiate your own investigation.

10 Q: Okay. But they can -- if there's some alleged  
11 misconduct, a deputy can't just verify whether what the inmate is  
12 saying is true to determine whether he needs to have the matter  
13 addressed any further or not?

14 A: No. Deputies --

15 Q: That's the --

16 A: -- deputies had the ability to review video in the  
17 jail.

18 Q: Okay. So Mr. Erwine didn't do any- -- do anything  
19 inappropriately, right?

20 A: I'm not going to, uh, necessarily speculate on  
21 that, but he --

22 Q: But you're --

23 A: -- did have --

24 Q: -- his boss, right?

25 MS. PARKS: Don't -- don't interrupt him, Luke,

1 please.

2 Q: I'm sorry to interrupt you. Go ahead.

3 A: But he did have access to videos and could review  
4 videos in the jail because he worked there.

5 Q: Okay. So Sergeant Summers' statement here that  
6 Erwine had no authority in his current position to review  
7 videotapes is just simply incorrect; is that right?

8 A: Uh, possibly.

9 Q: Okay. I'd like you to turn to the next page,  
10 what's been marked at Exhibit 42. In -- oh, I'm sorry, Exhibit  
11 7, page 42.

12 A: Okay.

13 Q: Do you see there where it says, "Beaulieu told me  
14 that the younger black- haired deputy had reviewed all the video  
15 footage and spoken to him several times, and indicated that a  
16 lawsuit would be winnable." Do you see that?

17 A: I see that.

18 Q: Okay. That's probably pretty concerning for the  
19 sheriff's office, right?

20 A: Certainly.

21 MS. PARKS: Objection.

22 Q: Okay.

23 MS. PARKS: Objection.

24 Q: Did you --

25 MS. PARKS: Improper hypothetical. Assumes facts

1 not in evidence.

2 Q: Okay. Did you ever interview Mr. Beaulieu about  
3 what happened to him at the jail?

4 A: I did not.

5 Q: Did you interview Sergeant Summers about what  
6 happened to Mr. Beaulieu at the jail?

7 A: I did not.

8 Q: Okay. See at the bottom where it says, "Called  
9 Sheriff Trotter and discussed the call with him."?

10 A: Yes.

11 Q: Okay. So Sergeant Summers called you about his  
12 call with Mr. Beaulieu; is that right?

13 A: Uh, I don't remember the specific of -- the  
14 specifics of our call, but I do see where he says he did discuss  
15 that call with him, or with me, yeah.

16 Q: Okay. You know, and I'm not -- I'm not trying to  
17 give you a memory test. I understand this stuff happened a long  
18 time ago, but I just want to be clear about what happened.

19 A: Okay.

20 Q: And so it's clear from this document that Sergeant  
21 Summers called you about what happened with Mr. Beaulieu, right?  
22 And you discussed with him?

23 MS. PARKS: Objection. Asked and answered.  
24 That's what this document said, and the win- -- and the witness  
25 has answered that question.

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 51

1                   **Q: Go ahead, Sheriff Trotter.**

2                   A: I did receive a call from Sergeant Summers on that  
3 date.

4                   **Q: Okay. So -- and it states here, "Was told to have**  
5 **Sergeant Nuckolls access Erwine's computer for any sign of the**  
6 **incident and report that Deputy Thompson had seen," right?**

7                   A: Yes, I see that.

8                   **Q: Do you recall ordering Sergeant Summers to look in**  
9 **Erwine's computer?**

10                  A: Oh, and the fact is wouldn't have been his  
11 computer, they all -- uh, there is, I think, two computers in the  
12 booking cage. And I -- I believe it was two. And so everybody  
13 shared the same computer. So yes, I did ask, uh, Sergeant  
14 Nuckolls to come in and, uh, look in the computers.

15                  **Q: Okay. But what -- what were you looking for?**

16                  A: Well, based on the current exhibit, um, a Word  
17 document that had been reportedly seen that Mr. Erwine was  
18 allegedly drafting, um, uh, potentially was related to his  
19 personal investigation of our agency.

20                  **Q: Okay. What do you mean by personal investigation**  
21 **of your agency?**

22                  A: Oh, it appears Mr. Erwine was investigating  
23 whatever had happened with Mr. Beaulieu and -- and what was  
24 reported was that there was a, uh -- he had developed a document  
25 --

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 52

1 Q: Okay.

2 A: -- and -- on one of those computers.

3 Q: Okay. Did you ever ask Mr. Erwine why he was  
4 creating a document based on what happened to Mr. Beaulieu?

5 A: I did not.

6 Q: Okay. So it states here, "Sergeant Nuckolls was  
7 able to locate a screenshot of a Word document written by Deputy  
8 Erwine outlining his 'investigation' into the security cell  
9 incident." Is that right?

10 A: That's what it says.

11 Q: Okay. All right. So turning to the next document  
12 which has been marked as Exhibit No. 8. Do you recognize this  
13 document?

14 A: Yeah. This appears to be a standard form in  
15 Spillman for jail incidents, um, which would be written by the  
16 on-duty staff.

17 Q: Okay. Do you know who wrote this?

18 A: It appears, uh, Deputy Chris Burton.

19 Q: And do you know if Mr. Burton was involved at all  
20 in -- in the situation where Mr. Beaulieu was noncompliant or  
21 requesting water?

22 A: Um, based on the -- which -- which exhibit is it?  
23 Your -- Exhibit 9, he was involved in checking on him some, um,  
24 after he had been placed in the, um, cell --

25 Q: Okay.

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 53

1 A: -- padded cell.

2 Q: Okay. So Burton is a detention deputy?

3 A: Yes.

4 Q: Okay. As was Mr. Erwine, right?

5 A: Yes.

6 Q: Okay. All right. So turning to Exhibit No. 9, do  
7 you recognize this document?

8 A: Yes. I don't recall necessarily having seen it  
9 before, but I -- I have -- uh, and I recognize what the document  
10 is.

11 Q: Okay. So it seems like there's lots of different  
12 people's handwriting here. Is that reasonable to assume that?

13 A: It appear so.

14 Q: Okay. Do you recognize whose handwriting this is  
15 of the different entries given here?

16 A: No. I don't recognize anybody's handwriting,  
17 specifically.

18 Q: Okay. Do you see the entry at "521," where it  
19 says, "Offered water refused."?

20 A: Yes.

21 Q: Okay. Do you know whose handwriting that is?

22 A: No. I don't even recognize the -- remember the, uh,  
23 call number. Uh --

24 Q: Okay. And so there's no way to really know who was  
25 handwriting these things based on this document by its own terms,

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 54

1 right?

2 A: I don't know. I mean --

3 Q: Okay. So you're talking --

4 A: -- they -- they put their --

5 Q: I'm sorry. Go ahead.

6 A: The officers are supposed to put their call number  
7 next to it, and that's what those numbers on the second  
8 filled-out column are.

9 Q: Okay.

10 A: Uh, you just --

11 Q: Do you recognize --

12 A: -- would have to --

13 Q: I'm sorry. Go ahead.

14 A: You go ahead.

15 Q: Do you recognize badge number 644?

16 A: I'm not sure who that was. Um, that could've been  
17 Mr. Erwine. The only reason I know Mr. Burton was, uh -- Deputy  
18 Burton was badge 682 is 'cause it was on his name under Exhibit  
19 8.

20 Q: Okay.

21 A: But I don't remember their badge numbers.

22 Q: Okay. Do you know whether Dep- -- Burton's badge  
23 number was 521?

24 MS. PARKS: Objection. Asked and answered.

25 MR. BUSBY: No --

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 55

1 A: I didn't -- I didn't really hear that.

2 Q: Do you know whether Burton's badge number was 521  
3 [sic]?

4 A: Uh, no, that's a time. Um, Deputy Burton's badge  
5 number should have been 682 based on Exhibit 9 where he filled  
6 out that report.

7 Q: Okay. So and 645, do you know who that was?

8 A: I do not remember.

9 Q: So you don't know whether 645 was Deputy Thompson?

10 MS. PARKS: Objection. Asked and answered.

11 A: Correct. I don't remember any of their badge  
12 numbers.

13 Q: Okay. Do you see the entry at "6:07"?

14 A: I see it.

15 Q: By 644, badge number 644. It says --

16 A: It's --

17 Q: -- "Gave water and cleaned hands." Is that right?

18 A: It does say that, and I'm assuming that that's a  
19 644. It could be a 699, 694, also.

20 Q: Okay. All right. So based on this, Beaulieu was  
21 placed in the security cell at "3:40." And it looks like the  
22 first "gave water" indication is at -- is at around "5:51"; is  
23 that correct?

24 MS. PARKS: Objection. Misstates what this  
25 document says. Did you say 5:51?



MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 56

1 Q: Yeah.

2 A: I see that as the first time that it was a  
3 successful water transfer.

4 Q: Okay. All right. So let's turn to Exhibit No. 10.  
5 Do you recognize this document?

6 A: I really did not until, um -- but -- but I mean --  
7 when I saw the exhibit, that I can see it. But I don't  
8 necessarily re- -- necessarily remember looking at it prior, uh,  
9 but I may have.

10 Q: Okay. So is this the Word document that was  
11 referred to in Sergeant Summers' letter in Exhibit 8?

12 A: Um, I would expect maybe it is.

13 Q: Okay.

14 A: Uh --

15 MS. PARKS: Don't --

16 A: -- based on --

17 MR. TROTTER: Go ahead, Ms., uh, Parks.

18 MS. PARKS: You are not required to guess. It's  
19 what you recall.

20 A: Um, just in read- -- reading it, it does appear to  
21 possibly be that.

22 Q: Okay. All right. So it states here -- I think  
23 it's the third sentence, and this is authored by Deputy Erwine.  
24 That is your understanding?

25 MS. PARKS: Objection. Asked and answered.

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 57

1 A: I don't have information on who authored this.

2 Q: Okay.

3 A: But that is the information I had at that time.

4 Q: Oh, okay. So do you see where it states, "At  
5 approximately 0551 hours, I made contact with Beaulieu and asked  
6 him what was going on. He stated that he had been asking for  
7 water for the previous two hours, in which nobody had given -- in  
8 which nobody had given to him."

9 A: I see that.

10 Q: Okay. Do you think that type of situation is one  
11 that would raise a red flag for a detention deputy?

12 A: I didn't hear the end of that.

13 Q: Is that -- is that allegation a red flag for a  
14 detention deputy?

15 A: That somebody has asked for water for, uh, two  
16 hours and wasn't given any?

17 Q: Yeah.

18 A: Um, I think that's very dependent on the  
19 circumstance. And, uh -- and it depends very much on the  
20 circumstance for the deputy. Does the deputy actually know the  
21 circumstances on why that subject was not given water?

22 Q: Okay. Do you see next sentence where it states,  
23 "Beaulieu stated that he had been asking repeatedly for water and  
24 heard deputies laughing at him through the security door cell."?

25 A: I see that.

1           **Q: Okay. Is that appropriate behavior by sheriff's**  
2 **deputies of Churchill County?**

3           MS. PARKS: Objection. Improper hyp- --  
4 hypothetical. Assumes facts not in evidence.

5           A: I would say that it's not professional behavior to  
6 laugh at inmates.

7           **Q: Okay. Do you see the next paragraph there where it**  
8 **states, "I reviewed the footage of Beaulieu's booking and found**  
9 **that he had first started asking for water at approximately 0350**  
10 **hours."?**

11          A: I see that.

12          **Q: Okay. So in order to know that, the person who was**  
13 **writing this would had to heard those requests, right?**

14          A: That would be the expectation.

15          MS. PARKS: What was the end of that question?  
16 Sorry. Luke, I couldn't hear you.

17          MR. BUSBY: I'm just asking whether a person who  
18 is making that statement would have had to have heard those  
19 requests on audio.

20          MS. PARKS: And that calls -- that calls for  
21 speculation. It's argumentative.

22          **Q: Okay. And Mr.- -- Sheriff Trotter, your answer was**  
23 **yes; is that correct?**

24          A: That would be the expectation, yes.

25          **Q: Okay. Okay. All right. And I'd like you to turn**

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 59

1 to the next page marked as Exhibit 10 at 046, ERWINE046.

2 A: Okay.

3 Q: Do you see where it states, in the second paragraph  
4 there, "No water was given to Beaulieu for approximately two  
5 hours after he began asking until I made contact with him at the  
6 beginning of my shift, gave him water and inspected his bloody  
7 hand."?

8 A: I see that.

9 Q: Okay. "During my review of the security cell video  
10 footage, I observed the drain being flushed numerous times while  
11 Beaulieu was asking for water. This correlates with Beaulieu's  
12 story, when asking for water, he'd hear deputies laughing and the  
13 drain would flush." Do you see that?

14 A: I see that.

15 Q: Okay. So did you ever ask to review the video  
16 footage of what happened to Mr. Beaulieu at the night -- the  
17 night in question at the Churchill County jail?

18 A: I did not review the video.

19 Q: Does this indicate anywhere in this document that  
20 this was an investigation of the Churchill County Sheriff's  
21 Office or the jail?

22 A: No.

23 Q: Does it indicate -- does the author indicate  
24 anywhere why he's writing these things down?

25 A: No.

1 Q: All right. I'd like you to turn to Exhibit No. 11.  
2 Do you recognize this document, Sheriff Trotter?

3 A: I do.

4 Q: Okay. What is it?

5 A: It appears to be a memo from Deputy Jolie Jabines,  
6 um, about a incident involving Mr. Erwine.

7 Q: Okay. And this is dated "October 9th, 2016"; is  
8 that right?

9 A: Yes.

10 Q: Okay. And did you review this document as part of  
11 your preparation for this deposition?

12 A: Yes.

13 Q: Okay. So can you describe to me your understanding  
14 of what this document communicates?

15 A: Um, this was a document, uh, or a memo done by  
16 Deputy Jabines about where she dropped some items on the floor.  
17 The booking cage called in, uh, I guess what they called the  
18 house mouse in the old jail. That was an inmate that cleaned up  
19 around the place. That was a trustee. Uh, apparently, this  
20 inmate was Inmate Maes to pick up some items that she couldn't  
21 get to and then she alleges that Mr. Erwine inappropriately used  
22 his taser.

23 Q: Okay. Have you ever spoken with Mr. Maes about  
24 this incident?

25 A: No.

1           Q: Have you ever spoken with Mr. Erwine about this  
2 incident?

3           A: No.

4           Q: Okay. So --

5           A: Well, I need -- and I need to quantify that. Um --

6           Q: Go ahead.

7           A: When it comes to speaking to Mr. Erwine about this  
8 or the note, I think I should do it since I'm thinking of it  
9 right now. Um, I did have a conversation with Mr. Erwine, um, at  
10 the separation meeting that we had, a resignation meeting. And,  
11 um, these items may have been part of that conversation, but I  
12 can't specifically remember the conversation.

13           Q: Okay. So what was improper about what Mr. Erwine  
14 did in the situation described here by Deputy Jabines, I believe,  
15 you said? That's how you pronounce her name? Can you hear me?

16           A: Uh, uh, you fade out at the end of your sentences  
17 --

18           Q: Okay.

19           A: -- some. Jabines -- Jabines is the way we  
20 pronounce that, yes.

21           Q: Okay. So what was inappropriate about what Mr.  
22 Erwine did in this situation with Mr. Maes?

23           A: Based on this memo, um, it would seem that Mr.  
24 Erwine pointed a taser at the inmate, allegedly in a potentially  
25 joking manner. Um, and then removed the actual cartridge, uh,

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 62

1 and dis- -- didn't discharge but activated the taser. Um, fired  
2 it, I guess you could call it.

3 Q: Okay. When you say "fired it," does that mean just  
4 turn it on?

5 A: No. That would be activating it. Firing it would  
6 be when you pull the trigger, and it actually, uh, does the shot.

7 Q: Okay. So by fire it you mean it's like sparking or  
8 something?

9 A: Yes. If you remove the, uh, cartridge -- the  
10 cartridge would put out, uh, eject probes. Um, so if you remove  
11 the cartridge, you can still do what they call a contact stun,  
12 where you just remove the cartridge and fire it. And it'll spark  
13 between the two probes at the end of the, uh, taser device.

14 Q: Okay. So it states here that, in the second  
15 paragraph, "While removing inmate property from the booking cage,  
16 I accidentally knocked over a can containing numerous tools and  
17 screws which fell under the shelving." Okay. Tools and screws?  
18 Do you think those are items that can be potentially dangerous in  
19 the hands of an inmate at the jail?

20 A: Yes.

21 Q: Okay. What was Churchill County's policy about  
22 when it was appropriate for a deputy to -- to fire their taser in  
23 the conducts of the jail?

24 A: Uh, it would have fallen within our use of force  
25 continuum, which I don't have in front of me. Um, it's

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 63

1 considered a -- uh, they come -- they go by levels, so it's  
2 considered a -- I believe a Level 4 --

3 Q: I'm sorry --

4 A: -- Use --

5 Q: -- you faded out a little bit there.

6 A: Level 4 Use of Force, maybe. That's --

7 Q: Okay.

8 A: -- what I believe I -- I remember from the policy.

9 Q: So what's your understanding of when it's  
10 appropriate to use a Level 4 Use of Force?

11 A: Uh, when verbal commands and hand command -- hand,  
12 um, efforts have not worked. Um, when your presence hasn't  
13 worked, which are low- -- lower levels of force.

14 Q: Okay. Are you always going to have time to give a  
15 verbal command before you fire up your taser when there's a  
16 situation involving an inmate?

17 A: Oh, no. Not necessarily.

18 Q: These can be very quick dynamic processes with  
19 people who are in custody; is that correct?

20 A: Sure.

21 Q: Okay. So if an inmate [sic] feels that there's a  
22 potential danger to them, other inmates or people around them, is  
23 it appropriate for them to arm their taser --

24 MS. PARKS: Object- --

25 Q: -- as self-defense mechanism?



MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 64

1 MS. PARKS: Objection. Improper hypothetical.

2 A: So you're saying if an inmate felt that another  
3 inmate was going to harm them, could the inmate arm their taser?

4 Q: No. I'm saying if -- if a deputy feels that there's  
5 a risk of harm to the deputy, other inmates or other deputies, is  
6 it appropriate for them to -- to arm their taser?

7 MS. PARKS: Same objection.

8 A: Depending on the circumstances.

9 Q: Okay. Did you ever give Deputy Erwine an  
10 opportunity to respond to the allegations here by Deputy Jabines  
11 in writing?

12 A: No.

13 Q: All right. And this was the day after the incident  
14 involving Mr. Beaulieu; is that correct?

15 A: Uh, based on the date here, yes.

16 Q: Did you have any communications other than this  
17 document with Deputy Jabines about this incident?

18 A: Um, yeah. I received a call -- um, not remembering  
19 if it was from her. I'm looking at my memo. It looks like it  
20 was actually from Summers advising about this.

21 Q: So Sergeant Summers contacted you about this  
22 incident with Deputy Jabines?

23 A: Correct. I believe she contacted him.

24 Q: Okay. And this is the day after Sergeant Summers  
25 authored the memorandum in Exhibit 7 in which he accuses Deputy

1 Erwine of misconduct; is that right?

2 A: Yes.

3 Q: Okay. Of improperly investigating the situation  
4 with the inmate Beaulieu; is that correct?

5 A: This looks to be the day after.

6 Q: Okay. All right. I want you to turn to what's  
7 been marked as Exhibit No. 12.

8 A: Okay.

9 Q: Do you recognize this document?

10 A: Um, I recognize what it is, yes.

11 Q: Okay. What is it?

12 A: Uh, this would be a software report on a taser for  
13 -- which would -- essentially, the tasers document or use  
14 internally. And then when you plug them into the specific  
15 software relevant to them, you can get a report like this  
16 generated.

17 Q: Okay. So do you know whether the taser that's --  
18 what the log is indicated here, do you know whether this was Mr.  
19 Erwine's taser?

20 A: Uh, there was no specific taser assigned to, uh,  
21 detention deputies. There was, um -- we didn't have enough  
22 tasers, so there was, like, I think, three tasers, maybe, in the  
23 jail, two or three. And so you just come in and pick one when  
24 you begin --

25 Q: Did you ever ask --

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 66

1 A: -- your --

2 Q: I'm sorry. Go ahead.

3 A: When you begin your shift.

4 Q: Did you ever ask Mr. Erwine which taser he was  
5 carrying at the time of the incident with Mr. Maes?

6 A: I did not.

7 Q: Okay. And so just so I understand, when a deputy  
8 comes on shift, you have three tasers there. You pick one up.  
9 You carry it with you during your shift. And then when your  
10 shift is over, you put it back; is that right?

11 A: That's how it would work if you're not assigned  
12 one.

13 Q: So did you ever verify whether Mr. Erwine actually  
14 fired his taser on the date in question with Mr.- -- Mr. Maes?

15 A: Uh, that's what this report does, and that's also  
16 what my understanding of the video review did.

17 Q: Okay. So there was a video of this incident?

18 A: Yes.

19 Q: Did you review that video?

20 A: I did not.

21 Q: Okay. So do you have any, you know, personal  
22 knowledge that the taser listed here was the one Mr. Erwine was  
23 actually carrying that day?

24 A: I believe it was listed in a memo, one of those  
25 memos. But no, I don't specifically know how we -- how are Mr.

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 67

Orozco, or Sergeant Orozco, uh, got that specific taser.

**Q: Sergeant Orozco?**

A: Yeah. Sergeant Lee Orozco developed this, uh, software report.

**Q: Okay.**

MS. PARKS: Okay. I need a short break. Five minutes? I just need --

MR. BUSBY: Okay.

MS. PARKS: -- to go to the ladies' room, if we can take a short break.

MR. BUSBY: Fair enough.

MR. IVEY: Okay. We're going off the record. The time is 12:00 o'clock p.m.

MR. IVEY: We're back on the record in the matter of Michael Erwine v. Churchill County, et al., in the deposition of Benjamin Daniel Trotter. The time is 12:05 p.m. Go ahead, Luke.

MR. BUSBY: Okay. Thank you.

**Q: Mr. Trotter, when we left off we were talking about Exhibit 12, which is the Axon document describing, you know, what happened with a particular taser at the jail. So this report was generated by Officer Orozco. Is that how you say it?**

A: Orozco, yes.

**Q: Orozco. Okay. And do you know whether Orozco determined that this was actually Mr. Erwine's taser that he was**

1 using that day?

2 A: Um, as I said, the, uh, tasers aren't really  
3 assigned to anybody specific. I don't know how it was determined  
4 that, um -- well, I actually -- it seems to me that they were all  
5 checked for use, that the jail tasers were checked for use. If I  
6 remember, my memo said that the other two tasers at the --  
7 current -- at the jail currently did not show a test fire anytime  
8 near the time of this one. And so he must have checked all three  
9 of them.

10 Q: Okay. So it looks like this device was fired on  
11 "October 7th at 5:47"; is that right?

12 A: It looks right.

13 Q: "October 9th at 5:46"; is that right?

14 A: Correct.

15 Q: Okay. So, I mean, how often were you -- were you  
16 -- would a deputy been using a taser at the jail, or firing?

17 A: Well, and here -- here's going to be a slight  
18 speculation, but October 7th and October 9th, both of those  
19 appear to be right at the beginning of a day shift. So whoever  
20 tested those, and -- typically, you're supposed to come in,  
21 activate the taser, remove the cartridge, do a test fire for a  
22 second to verify that the battery is still good.

23 Q: Okay.

24 A: Um, and so that would -- those would -- those two  
25 would probably have been done at the beginning of a shift, um, by

1 a conscientious employee.

2 Q: Okay. And the allegation is that in Deputy  
3 Jabines' memo in Exhibit 11, that Erwine fired his taser and  
4 pointed it at Maes, right?

5 A: Correct.

6 Q: And that would have taken a few seconds, right? At  
7 least?

8 A: Um, if you have it pointed and you just pull the  
9 trigger, you can do that for a second, just like you would be --  
10 do if you were just testing the battery.

11 Q: Okay. So -- but when it's in the fire mode, when  
12 it's ready to be sh- -- to be deployed, isn't it recording how  
13 long it's ready to be deployed?

14 A: No. It deploys how long it's discharged.

15 Q: Okay. So when you just activate it, it says fired  
16 for one seconds; is that right?

17 A: If you activate it for one second, you can fire it  
18 and then turn it off.

19 Q: Okay.

20 A: So you do not -- the actual tur- -- uh, time before  
21 it turns itself off is seven seconds. Um --

22 Q: Okay.

23 A: -- so you -- but you can't manually turn them off.  
24 So you don't have to do what we call the full ride, you know,  
25 full seven-second ride, um, on the taser.

1 Q: Okay. Do you see here in Exhibit 12 -- I mean,  
2 there is a star marked in number 3 there, right?

3 A: Yes.

4 Q: Did you put that there?

5 A: I did not.

6 Q: Okay. Do you know who did?

7 A: I don't.

8 Q: Okay. But this is allegedly when Mr. Erwine lit up  
9 his taser and pointed it at Maes, right?

10 MS. PARKS: Objection. Asked and answered.

11 A: That's what it appears to be.

12 Q: Do you see where it's says "duration, one second"?

13 A: Yes.

14 Q: Okay. All right. All right. Do you remember  
15 whether Mr. Erwine was wearing a taser on -- at the October 10th,  
16 2016 meeting when he resigned?

17 A: I don't specifically remember.

18 Q: Okay. All right. So turning to Exhibit 13. Do  
19 you recognize this document?

20 A: Yes.

21 Q: Okay. What is this?

22 A: This is an Employee Action for standard document  
23 used by the County to, uh, document various employee pay, higher,  
24 promotion-related activities.

25 Q: Okay. Is that your signature at the bottom there?

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 71

1 A: Yes.

2 Q: Okay. And under "employee signature," it says,  
3 "Not available to sign"; is that correct?

4 A: Correct.

5 Q: Okay. And this is basically the paperwork involved  
6 with terminating Mr. Erwine's employment from the County, right?

7 A: It is the paperwork documenting his separation,  
8 yes.

9 Q: Okay. And it was effective "10/10/2016," right?

10 A: Yes.

11 Q: Okay. All right. Turning to the next Exhibit No.  
12 14. Do you recognize this exhibit?

13 A: Yes.

14 Q: Did you write this?

15 A: I typed it, yes.

16 Q: Okay. Is that your signature?

17 A: Yes.

18 Q: Okay. And that's -- Mr. Erwine signed this in your  
19 presence?

20 A: Yes.

21 Q: And Mr. Matheson, Captain Matheson, signed this in  
22 your presence?

23 A: We were all present at the same time.

24 Q: Okay. Do you recall calling Mr. Erwine into your  
25 office on October 10, 2016?



MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 72

1 A: Uh, you kind of --

2 Q: I'm sorry.

3 A: [Overlapped Talking]

4 Q: Do you recall -- I'll repeat it. Do you recall  
5 summoning Mr. Erwine to your office on October 10th, 2016?

6 A: I don't believe we went to my office.

7 Q: Okay. Do you --

8 A: I believe --

9 Q: -- know where you were?

10 A: -- we went to one of the sergeants' offices at the  
11 sh- -- over by the jail.

12 Q: Okay. Was there a recording device in that office?

13 A: No.

14 Q: Okay. Did you make a recording of this meeting  
15 with Mr. Erwine?

16 A: I did not.

17 Q: Do you know whether anybody else made a recording  
18 of this interview with Mr. Erwine?

19 A: I do not.

20 Q: Okay. Did you determine whether or not you were  
21 going to terminate Mr. employ- -- Mr. Erwine's employment with  
22 the County before you had this meeting?

23 A: Yes.

24 Q: Well, so you had already determined that you were  
25 going to fire him?

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 73

1           A: I determined we were going to offer him an  
2 opportunity to resign or he would probably be terminated. Well,  
3 he --

4           Q: Okay.

5           A: -- would be terminated.

6           Q: So when he came into the room, you gave him a  
7 choice, "Resign or you're terminated." Is that a fair  
8 characterization of what you told him?

9           A: I can't remember what I necessarily told him. I'm  
10 pretty sure it was not that short. Um, but yes, that was the  
11 options.

12           Q: Okay. Did Mr. Erwine have any notice of this  
13 meeting before it occurred?

14           A: No.

15           Q: Okay.

16           A: Well, okay. I'm going to quantify that. He was  
17 not given notice that he was going to be either resigning or  
18 terminated, so he did not know that I was bringing this letter of  
19 separation.

20           Q: Okay. Did you dis- -- discuss with him the  
21 incidents with Beaulieu or Maes before you terminated him?

22           A: I don't specifically remember the conversation.

23           Q: Okay. Did you give him an opportunity to justify  
24 what he'd done --

25           A: I --

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 74

1 Q: -- before you terminated him?

2 A: -- don't specifically remember how the conversation  
3 went.

4 Q: Okay. All right. Did you tell him he wouldn't be  
5 entitled to any of his benefits, or any other pay, or anything  
6 like that if he refused to resign?

7 A: No. I don't believe that was ever part of the  
8 conversation. But I -- once again, I don't remember exactly what  
9 it was. That is not something I would typically have actually  
10 had memorized.

11 Q: Okay. Just as a general -- based on your general  
12 knowledge of how employee situations, you know, at the sheriff's  
13 office worked, was there a difference in between what a -- a  
14 deputy would receive when they resigned as opposed to when they  
15 were fired?

16 A: Um, I don't know about that. I -- I think they're  
17 probably, you know, kinda dependent on how long you were there.  
18 The County had some policies and still has some policies in  
19 relation to whether you get paid out sick time, um, and things of  
20 that sort. Um, I mean, the option between resigning and being  
21 terminated, it was more about what you can put on your next job  
22 application.

23 Q: Okay. All right. Let's take a look at what's been  
24 marked as Exhibit No. 15.

25 A: Okay.

1 Q: Do you recognize this document?

2 A: Yes.

3 Q: Okay. What is it?

4 A: It's a memorandum I did on the day of separation.

5 Q: Okay. And there are several allegations against  
6 Mr. Erwine that are included in this document; is that right?

7 A: Yes.

8 Q: Okay. "Failure to follow proper chain of command."  
9 Is that right?

10 A: Yes.

11 Q: "Conduct unbecoming of a deputy and unjustifiable  
12 use of force." Is that correct?

13 A: Yes.

14 Q: Okay. So those are the two major categories of --  
15 of the allegations against him; is that right?

16 A: In this document, yes.

17 Q: Okay. So -- so you described here that --  
18 generally that -- what happened with Mr. Beaulieu at the  
19 beginning, right? On October 8th, 2016? But -- and it says here  
20 that, "I texted Sergeant Summers after we had a short telephone  
21 conversation that we needed Thompson to write what he saw Erwine  
22 doing." Is that right?

23 A: Um, where are you seeing this?

24 Q: I'm seeing that on the -- the one, two, three, four  
25 -- the fifth paragraph, under the "Failure to follow proper chain

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 76

1 of command," allegation.

2 A: Um --

3 Q: I'm sorry.

4 MR. BUSBY: Mark, this is Exhibit 15.

5 A: Yeah, Exhibit 15. Are you on page 53 or 54?

6 Q: 53.

7 MR. IVEY: Sorry, Luke. Let me pull that up on.

8 For some reason, it wasn't loaded. One second --

9 MR. BUSBY: Okay.

10 MR. IVEY: -- please.

11 A: And I do see where you are, um, mentioning that I  
12 texted Sergeant Summers' back.

13 Q: Okay. Did you retain those text messages?

14 A: I don't even have that phone anymore, no.

15 Q: Okay. Was that your phone that was issued by the  
16 sheriff's office?

17 A: Yes.

18 Q: Okay. Does the sheriff's office still have that  
19 phone?

20 A: Doubtful. It's been some years.

21 Q: Okay. Did you guys have a policy about preserving  
22 and not preserving text message communications on devices that  
23 are used by Churchill County Sheriff's Office employees at that  
24 time?

25 A: No.

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 77

1 Q: Do you remember what -- what the exchange in those  
2 text messages was about?

3 A: I have to base it on what's in this memo. So I  
4 don't specifically remember. Um --

5 Q: Okay. So the -- the italicized text there, right?  
6 Is -- it states that that's a not verbatim copy of the text you  
7 received from Sergeant Summers, right?

8 A: Yes. But I -- I believe it's pretty verbatim, but  
9 putting "not verbatim" in case I mistype.

10 Q: Okay.

11 A: So -- and the italicized text here states that --  
12 in the second sentence, "I was told today that Deputy Erwine went  
13 over all the video footage for the inmate and started his own  
14 hidden Word document on the incident." Is that right?

15 A: Uh, that's what that reads, yes.

16 Q: Okay. So where you discussed the propriety of the  
17 deputy reviewing video footage, did you verify whether Erwine had  
18 created a hidden Word document?

19 A: Uh, that's one of these exhibits, um --

20 Q: Okay.

21 A: -- that Sergeant Summers -- uh, Sergeant Nuckolls  
22 found.

23 Q: Okay. Well, how did he hide it?

24 A: Oh, I don't know.

25 Q: Okay. But you already said that these are

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 78

1 computers that the deputy sheriff, they're computers that are  
2 owned by the sheriff's office, right?

3 A: Yes. There's, I think, two computers used by the  
4 detention deputies.

5 Q: Okay. Okay. Do you see the paragraph that starts  
6 with, "I had Sergeant Nuckolls, who performs IT for our agency,  
7 come into work on his day off and attempt to find this 'hidden  
8 Word document' on the jail desktop computers."?

9 A: I see that.

10 Q: Okay. So -- and that document was attached to his  
11 report?

12 A: Um, I've -- it in -- I indicated that, yes.

13 Q: Okay. So was that the document in -- that's been  
14 marked here as Exhibit 10? Is that the same document you're  
15 referring to here in your report in Exhibit 15?

16 A: Yes. I believe that's the same document.

17 Q: Okay. So why -- why refer to the document as a  
18 hidden Word document? What about it was hidden?

19 A: Well, that was in quotes from, um -- because that's  
20 what Mr. Summers, uh, had said -- had called it.

21 Q: Okay. Did you ever find out how it was hidden?

22 A: No.

23 Q: Okay. So in the next paragraph, do you see where  
24 it states, "Erwine's document does not once detail the actions  
25 and behavior of the inmate. It solely focuses on the fact that

1 the inmate was not given water for two hours after he asked for  
2 it."?

3 A: I see that.

4 Q: Okay. So -- so wh- -- why did you put that in  
5 there?

6 A: Well, typically, I would think if you did an  
7 investigation, you would put all the information in. Not just  
8 the information that maybe supports your cause, I guess. But  
9 maybe once --

10 Q: I'm sorry.

11 A: [Overlapped Talking]

12 Q: I'm sorry. I didn't hear that. Your what?

13 A: Your cause.

14 Q: Okay.

15 A: Why -- why you're looking at something.

16 Q: Well, how did you know why Mr. Erwine was looking  
17 into this situation?

18 A: Oh, I can't read his mind. I didn't know that.

19 MS. PARKS: Vague and ambiguous.

20 Q: Okay.

21 MR. BUSBY: I'm sorry. Kathy, that was fuzzy.

22 MR. TROTTER: Was there an objection there? I  
23 didn't hear that.

24 MS. PARKS: Yes. There was an objection that that  
25 was vague and ambiguous. The question, I didn't understand it.



MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 80

1 MR. TROTTER: Okay.

2 MR. BUSBY: Okay.

3 Q: So and -- I mean, there's several allegations here  
4 about the way Mr. Erwine handled the situation with Beaulieu,  
5 right?

6 A: Was there a question there?

7 Q: I'm just asking you whether that's a correct  
8 characterization of what's in the document.

9 A: Um, yes.

10 Q: Okay. Do you recall in Sergeant Summers'  
11 memorandum in Exhibit 7 where Sergeant Summers asked Erwine about  
12 what happened and Erwine told him?

13 A: I'd have to go back to Exhibit 7 and look.

14 Q: Okay.

15 A: Should I do that?

16 Q: No. I just want you --

17 A: Okay.

18 Q: Keep going if you don't mind. So you say here that  
19 you don't de- -- you -- you never detailed the actions that  
20 Erwine -- one of your complaints about what he did was he never  
21 detailed the actions of Beaulieu, right?

22 A: Okay.

23 Q: So, I mean, I'm -- I'm just trying to get a sense  
24 of what your meaning was here. I mean, was it your impression  
25 that Erwine was out to get his -- his, you know, his employer and

1 his for- -- fellow employees by being an -- an unfair advocate  
2 for Beaulieu?

3 A: Um, it was a concern.

4 Q: Okay. Do you see in Exhibits 10 where it states  
5 numerous times that Beaulieu was hitting the door of the security  
6 cell and that he was aggravated?

7 A: I'd have to go back to Exhibit 10.

8 Q: Okay. Did you see any other -- other video of the  
9 incident of Beaulieu, like, in your review of what happened with  
10 Mr. Erwine and Mr. Beaulieu, such as the interview that Erwine  
11 did in the kitchen at the jail?

12 A: I did not watch any video from the jail.

13 Q: Okay. So was Sergeant Summers Mr. Erwine's superv-  
14 -- supervisor on the shift where the incident with Mr. Beaulieu  
15 occurred?

16 A: I don't remember who the supervisor was.

17 Q: Okay. As a sergeant, was Mr. Summers Mr. Erwine's  
18 supervisor, generally?

19 A: If they were -- yes, generally, if they were on the  
20 same shift.

21 Q: And Sergeant Summers' memorandum in Exhibit 7  
22 states that he and Erwine discussed the incident with Beaulieu,  
23 right?

24 A: Once again, I'd have to go back and look at 7. I'd  
25 -- I'll have to take your word for that at this point. I just

1 don't -- I just saw these yesterday, so I don't have them, uh --

2 Q: Okay.

3 A: -- uh, taken to heart yet. So -- okay. So I do  
4 see where, in Exhibit 7, um, Sergeant Summers indicates that he  
5 pulled him into his office and asked him if he had issues or  
6 something of that sort.

7 Q: Okay. I'd like you to take a look at the items of  
8 concern in Exhibit 15 on page 54.

9 A: Okay.

10 Q: Do you see where it says, "An item of concern is  
11 that Deputy Erwine is a probationary employee and does not have  
12 authority to conduct his own personal" -- "personnel  
13 investigations."?

14 A: Correct. I see that.

15 Q: Were you ever told by Deputy Erwine that he was  
16 conducting a personnel investigation?

17 A: No.

18 Q: Okay. Do you see where it says, "Deputy Erwine has  
19 never brought his concerns to a supervisor or attempted to  
20 present his investigative findings."?

21 A: I see that.

22 Q: Okay. Well, he was fired two days after this  
23 occurred, right?

24 A: Um, yes. He was -- he resigned two days after this  
25 occurred.

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 83

1 Q: Okay. And he did discuss his concerns with  
2 Sergeant Summers who was his supervisor on shift that day, right?

3 A: It appears so.

4 Q: Okay. And then you say, "His investigative report  
5 mentions nothing about the behavior of Beaulieu, even that which  
6 was initially directed towards him." But as we discussed, Erwine  
7 noted in his, you know, Word document that Beaulieu was banging  
8 on the door and yelling, right?

9 A: I --

10 MS. PARKS: You're asking if that's what was noted  
11 in -- in Mr. Erwine's document?

12 MR. BUSBY: Yes.

13 A: Yes, that was noted in his documents.

14 Q: Okay. And then the last bullet point says, "I also  
15 find substantial concern that Deputy Erwine's investigation seems  
16 to have found and confirmed what Beaulieu alleged, that grave  
17 shift would flush the floor toilet and laugh when Beaulieu would  
18 yell for water. This will be investigated further and separately  
19 from this topic."

20 A: I see that.

21 Q: Okay. So did you conduct an investigation of what  
22 happened with Mr. Beaulieu?

23 A: I did not conduct an investigation.

24 Q: Did anyone else at the sheriff's office conduct an  
25 investigation, to your knowledge?

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 84

1 A: Captain Matheson would have been the one to conduct  
2 that investigation.

3 Q: Okay. So do you -- are you aware of whether he  
4 conducted that investigation?

5 A: I am -- I believe, I remember, but I would have to  
6 just guess that I got information back that it had been done.  
7 And I don't know what that information was.

8 Q: Okay. Was it in writing?

9 A: I don't believe it amounted to needing to be in  
10 writing. Um, but I don't know.

11 Q: Okay.

12 A: And I -- you know, if it's of any use, um, I was  
13 the sheriff. So I was part of the appeals process in  
14 investigations. So I did not personally conduct them.

15 Q: Okay.

16 A: Just so --

17 Q: So if you became aware of misconduct within your  
18 agency, you would report it to the captain, or some other person  
19 who would do the investigation and report it to somebody else; is  
20 that right?

21 A: Correct.

22 Q: Okay. But here you're -- you're basically saying  
23 that an investigation of what happened to Mr. Beaulieu would take  
24 place; is that right?

25 A: I can't --

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 85

1 MS. PARKS: I --

2 A: -- hear the end of your sentence.

3 Q: Oh, I'm sorry. In this document you're saying that  
4 an investigation of what occurred with Mr. Beaulieu would take  
5 place?

6 A: Yes.

7 Q: Did you order Matheson to conduct such an  
8 investigation?

9 A: Quite certain I did.

10 Q: All right. Let's turn to the second allegation.  
11 Actually, I'm sorry, backing up just one more sec- -- one more  
12 second. Are you aware of whether anybody from the department  
13 interviewed Mr. Beaulieu about what happened to him on October 8,  
14 2016 at the jail?

15 A: I am not.

16 Q: Okay. Did anybody -- are you aware of whether  
17 anybody interviewed Mr. Erwine about it?

18 A: I am not.

19 Q: So turning to the next allegation on "Conduct  
20 unbecoming of the deputy and unjustifiable use of force." And  
21 there's another text year from Sergeant Summers in -- in the  
22 italicized texture; is that correct?

23 A: Correct.

24 Q: Okay. And this is the day after you received a  
25 text from Summers the day before about the incident with

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 86

1 Beaulieu, right?

2 A: It appears to be the day after.

3 Q: Okay. Do you see where it says, "Erwine pulled his  
4 taser and pointed it at inmate, pulled cartridge off, pointed it  
5 again at inmate, and discharged it while laughing."?

6 A: I see that.

7 Q: Okay. What do you -- what does that mean by  
8 "discharged"?

9 A: That is firing a taser when you pull the trigger  
10 and make it spark.

11 Q: Okay. Is that an inappropriate way to check to see  
12 if it's working?

13 A: Yes.

14 Q: Okay. Do you see where it says, "Can I go into  
15 work and just send him home over this incident?"

16 A: I didn't hear at the end of that, but I do see that  
17 sentence.

18 Q: Okay. "Don't want him accidentally blinding our  
19 trustee."?

20 A: I see that.

21 Q: Okay. What does that mean?

22 A: Well, tasers, when you turn them on active and they  
23 have the cartridge in, they have been known to spontaneously  
24 discharge. Um, and that puts out two fishhook-like probes. Uh,  
25 certainly could blind somebody.

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 87

1 Q: And by "trustee," he means an inmate at the jail?

2 A: Yes.

3 Q: Okay.

4 A: Um, those who are designated trustees to get to do  
5 certain duties --

6 Q: [Overlapped Talking]

7 A: -- around the jail.

8 Q: Okay. Can you ask about --

9 A: They --

10 Q: I'm sorry.

11 A: They earn money for it.

12 Q: I'm sorry. Go ahead.

13 A: They earn a little money for it. Trustees do.

14 Q: Oh, okay. So -- and after you received this text  
15 from Sergeant Summers, it indicates here that you requested a  
16 report from Deputy Jabines, right?

17 A: Yes.

18 Q: Okay. And you inquired about a video; is that  
19 right?

20 A: Yes.

21 Q: Okay. Did you ever receive a copy of the video?

22 A: I did not.

23 Q: Okay.

24 A: I inquired whether there would be one.

25 Q: Do you agree that the video would have confirmed or



MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 88

1 denied the allegations about what happened here with Mr. Maes?

2 A: In part. Um --

3 Q: Okay.

4 A: -- this occurred in the booking cage. So if the  
5 audio was not turned on, um, there may not have been an actual  
6 audio sound.

7 Q: Okay. It states next, "I called Dispatcher Jerilyn  
8 Whitaker and asked her if she'd heard a taser being deployed in  
9 the cage. She had not."

10 A: I see that.

11 Q: Okay. So did you do any further investigation  
12 about the facts underlying the accusation that, you know, Erwine  
13 deployed his taser in the cage?

14 A: I did not.

15 Q: Okay. Do you see at 16:13 hours, Summers texted  
16 you, "Had Deputy Mike give his check camera footage? He said at  
17 9:04, Sheriff Erwine light up his taser with the trustee in his  
18 cage."?

19 A: I see that.

20 Q: Okay. So did -- you never discussed this incident  
21 with Mr. Maes?

22 A: With who?

23 Q: Maes, the inmate?

24 MS. PARKS: Asked and answered.

25 A: No, I did not.

1 Q: And you never discussed this incident with Mr.  
2 Erwine of --

3 MS. PARKS: Objection. Asked and answered.

4 A: I believe I answered that about the, uh, separation  
5 interview.

6 Q: Okay. So let's turn to the bullet point "Items of  
7 concern" here.

8 A: Okay.

9 Q: Item number one, you state, "This is unprofessional  
10 behavior."

11 A: I see that.

12 Q: And that's on page 55, ERW55. Okay. And then you  
13 state, "This creates civil liability for this agency now or for  
14 sometime in the future should Inmate Maes elect to pursue civil  
15 action," right?

16 A: I -- I see that.

17 Q: So at the time you wrote this, you were aware that  
18 there was potential pursuable action involving the matter with  
19 Mr. Maes?

20 A: Involving Mr. Maes?

21 Q: Yeah.

22 A: Um, sure.

23 Q: How about --

24 A: Anytime --

25 Q: Okay.

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 90

1 A: Anytime you use force -- anytime you use force  
2 there could be civil action.

3 Q: Okay. How about for Mr. Beaulieu? Were you --  
4 well, were you concerned about potential liability for the agency  
5 and that Mr. Beaulieu might elect to pursue civil action?

6 A: After the, um, investigation into what actually  
7 occurred, I was not concerned about the civil liability but that  
8 you could still face civil action whether you end up liable or  
9 not.

10 Q: Okay. But you were concerned that Beaulieu might  
11 con- -- might pursue a civil action against the agency?

12 A: Yes.

13 Q: Okay. You state here, "Deputy Erwine clearly  
14 violated our policies on tasers and use of force."

15 A: I see that.

16 Q: What was the policy on tasers that he violated?

17 A: Well, it was -- we have a Use of Force policy and  
18 we have a taser policy at the sheriff's office. I believe you've  
19 included one of those in your exhibits. Um, I don't have those  
20 in front of me, so I can't really, um, recite the policy.

21 Q: Okay. Was there a taser policy?

22 A: I don't specifically remember.

23 Q: Okay.

24 A: Um, there -- I'm -- I'm gonna suppose there  
25 probably was. But --

1 MS. PARKS: Don't guess.

2 A: -- once again -- once again, I'm supposing, so I'm  
3 -- I don't know.

4 MS. PARKS: It is what you recall. Don't guess.

5 A: So I don't recall whether we had a specific policy  
6 for tasers or if it was part of the Use of Force policy.

7 Q: Okay. And do you think it's fair to say that Mr.  
8 Erwine used force on Mr. Maes?

9 A: Based on the information, yes.

10 Q: Okay. Can you explain what you mean by that?

11 A: Well, uh, in our trainings over my career, you  
12 showing up, it -- your presence is a use of force, your voice is  
13 a use of force, your hands are a use of force, pointing a taser  
14 at someone is a use of force, turning the taser on is another  
15 step in that use of force.

16 Um, activating or discharging it, it's another step in that use  
17 of force. So it all -- it's continuum. It starts at the bottom  
18 with you showing up, presence, and it ends at deadly force. And  
19 so --

20 Q: Okay.

21 A: -- certainly pointing a taser would be a use of  
22 force.

23 Q: So do you indicate in this document which Use of  
24 Force policy Mr. Erwine violated?

25 A: I don't have it in that sentence that you were

1 reading.

2 Q: Is it anywhere here?

3 A: I don't specifically see it.

4 Q: Okay. And that's true for the taser policy as  
5 well, right?

6 A: Correct.

7 Q: Okay. And what about behavior standards? What  
8 behavior standards did he violate?

9 MS. PARKS: Luke, I can't hear. You keep --

10 MR. BUSBY: I'm sorry.

11 MS. PARKS: -- fading out.

12 Q: The behavior standards provision. Was there a  
13 behavior standard policy that was in writing at the sheriff's  
14 office at the time he was employed there?

15 A: I'm going to say that most of our policies are  
16 behavior standard policies.

17 Q: Okay.

18 A: Um --

19 Q: But this doesn't indicate which specific behavior  
20 standard policy he violated, right?

21 A: I do see that it does not.

22 Q: Okay. Turning to the next sentence -- well, just  
23 -- just one second. So do you have any knowledge of what  
24 happened to the video of the incident involving Mr. Beaulieu?

25 A: Um, no, I don't. But I can tell you that we've --

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 93

1 we're in a completely different facility now. Uh, the -- so the  
2 video system is changed. Um --

3 Q: Okay.

4 A: -- our video system in the jail, the hard drive, I  
5 believe, it would start, like, eliminating stuff after a certain  
6 period of time 'cause of the size of the hard drive. Um, so it  
7 -- I don't know specifically what that time frame was. It  
8 could've been 30 or 60 days. I think that's what we went for in  
9 the new facility was, I think -- I believe 60 days. I was  
10 involved in that process.

11 Q: Okay. Would the same go for the videotape of this  
12 -- the situation involving Mr. Erwine and Mr. Maes?

13 A: It would.

14 Q: Okay. To your knowledge, were those videos  
15 deleted?

16 A: I don't believe there was a way to go in and delete  
17 them. The system would auto delete them after a period of time.

18 Q: Okay. Was there a way you could preserve them if  
19 you needed them for a court case or something like that?

20 A: There was.

21 Q: Okay. Are you aware of whether these videos were  
22 preserved?

23 A: I'm not aware of that.

24 Q: Okay. You didn't keep a copy of the videos in your  
25 file?

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 94

1 A: I did not.

2 Q: Okay. Are you aware of whether copies of these  
3 videos were kept in the files of either Mr. Beaulieu or Mr. Maes?

4 MS. PARKS: Objection. Asked and answered.

5 A: I'm not.

6 Q: Okay. All right. Turning to the second to last  
7 paragraph here, it states, "Following my recent positive and  
8 encouraging counseling sessions with Deputy Erwine." So you were  
9 having counseling sessions with Erwine?

10 A: I had one, yes.

11 Q: Okay. And you say it was positive and encouraging,  
12 right?

13 A: I felt -- I felt so.

14 Q: Okay. So, I mean, does that mean his performance  
15 as a deputy was a improving?

16 A: Uh, not necessarily.

17 Q: Okay. What was --

18 A: This was --

19 Q: I'm sorry. Go ahead.

20 A: This was two days prior -- uh, actually three days  
21 prior to separation. And the day before the Bay- -- what --  
22 however he pronounce his -- Beaulieu incident and two days before  
23 the taser incident.

24 Q: Okay. What was positive about the counsng session?

25 A: Well, I had gone in, and I'd been hearing

1 perpetually things coming back, be it my captains, sergeants, and  
2 things, about Mr. Erwine for quite some time. And, um, I heard  
3 he was really discouraged. So I wanted to go in and just see if  
4 there was anything I could do to help him out, see if I-- there  
5 was anything I could do to -- oh, I don't know. Um, uh, uh,  
6 we're too small an agency to not try to salvage people.  
7 We lost people to, uh, agencies that paid better, uh, all the  
8 time. Mr. Erwine was hired under a time when we had lost, I  
9 think, one to somebody in Washington and three to Sparks because  
10 of pay. Um, and so, uh, I -- I really wanted to salvage my staff  
11 and to be able to keep them, and help them succeed, and so that's  
12 what I did. I went over, and met with --

13 Q: So --

14 A: -- Mr. Erwine.

15 Q: I mean, it sounds like the sentence that you had a  
16 good talk about his job and the situation there; is that -- is  
17 that fair?

18 A: Yeah. Uh, I, uh -- not 100 percent sure how  
19 effective it was, but I believed it went well. I believed that  
20 we understood what we were talking about when we left the -- the  
21 meeting. I thought it --

22 Q: Okay.

23 A: -- was positive.

24 Q: Okay. What was your impression about whether, you  
25 know, Mike really wanted to be a cop?



1 A: Um, I believe he did.

2 Q: Okay.

3 A: He interviewed well when we hired him.

4 Q: So he's enthusiastic. He wanted to -- you know, he  
5 wanted to be -- get into law enforcement. He'd spent plenty of  
6 time going to school for it. It was basically a dream job,  
7 right?

8 MS. PARKS: Objection. Calls for speculation.  
9 Asked and answered.

10 A: I can't, you know, assess his mental status or  
11 mental state about it. All I know is he had put in the work.

12 Q: Okay. Do you remember at that meeting at the  
13 recent positive and encouraging counseling session, Mr. Erwine  
14 discussing some of his concerns about Sergeant Summers' with you?

15 A: I don't specifically remember. I did do a -- a  
16 notation about this meeting after the fact. Um, I'd have to look  
17 at that, see if it addresses that. But I don't specifically  
18 remember much --

19 Q: Okay. I don't think --

20 A: -- of --

21 Q: -- we have been provided with a notation of that --

22 MS. PARKS: You have.

23 Q: [Overlapped Talking]

24 MS. PARKS: They're -- they're -- they've been  
25 produced. It's counseling session notes from several days prior

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 97

1 to the 10th of October.

2 MR. BUSBY: Okay. Okay.

3 A: I think --

4 Q: Do you recall saying he was doing a good job?

5 A: No. I don't recall that.

6 Q: All right. Do you see where you state in Exhibit  
7 15 at 55, "The cohesion of our detention division is being  
8 jeopardized by Deputy Erwine's continued employment here."?

9 A: I see that.

10 Q: Okay. What did you mean by that?

11 A: We're -- when we're working with a -- a staff of 13  
12 or so people in a jail, which is just already problematic on its  
13 own, tThe staff needs to be a team. You have to be able to work  
14 together.

15 Q: Okay. But do you think it's a fair  
16 characterization that Mr. Erwine was concerned about how Mr.  
17 Beaulieu was treated, right?

18 MS. PARKS: Objection. Asked and answered.

19 A: I -- do I think it's a fair characterization that  
20 he was concerned about that?

21 Q: Yeah.

22 A: Well --

23 MS. PARKS: Objection.

24 A: -- yes.

25 Q: And you state on ERW54, at the last bullet point

1 that, "I find substantial concern that Deputy Erwine's  
2 investigation seems to have found and confirmed what Beaulieu  
3 alleged."

4 MS. PARKS: Objection --

5 Q: Is that correct?

6 MS. PARKS: Objection. Asked and answered.

7 A: Where am I looking?

8 Q: The last bullet point on --

9 A: 54?

10 Q: -- page 54.

11 A: Yes, I see that sentence.

12 Q: Okay. So based on those two sentences, do you  
13 think it's a -- a reasonable conclusion that Mr. Erwine was fired  
14 for discovering and then writing about alleged misconduct of his  
15 fellow employees at the detention facility?

16 A: No.

17 Q: Okay. All right. Let's turn to Exhibit 16.

18 A: Okay.

19 Q: I -- just one more question about Exhibit 15, I'm  
20 sorry. We don't have to look at it, but -- so who was your  
21 intended audience when he wrote the memorandum in Exhibit 15?

22 A: I was.

23 Q: Did you have any --

24 A: I was --

25 Q: -- knowledge about whether a future employer of Mr.

1 Erwine might see that document?

2 A: It was not intended to be seen by others. It was  
3 just intended to remind me in case something like this came up  
4 down the road.

5 Q: Okay.

6 A: I did not --

7 Q: [Overlapped Talking]

8 A: -- feel like --

9 Q: I'm sorry. Go ahead.

10 A: I did not feel like keeping this in my personal  
11 possession, um, was the way to do that.

12 Q: So it was placed in Mr. Erwine's employee file?

13 A: Yes.

14 Q: All right. I would like you to take a look at  
15 Exhibit 16.

16 A: Okay.

17 Q: Do you recognize this document?

18 A: No.

19 Q: Okay. You've never seen this before?

20 A: Not until I saw it in the exhibits.

21 Q: Okay.

22 A: And the phone numbers on there would not be to the  
23 sheriff's office.

24 Q: Okay. Do you think it's fair to characterize this  
25 as a fax to -- from the Washoe County Sheriff's Office to the

1 **Churchill County Sheriff's Office?**

2 A: Uh, it's not to the sheriff's office. But yes, I  
3 can see that it is a fax from the Washoe County Sheriff's Office.

4 **Q: And it's dated --**

5 A: It is not to Churchill County.

6 **Q: I'm sorry. Go ahead.**

7 A: It is not to Churchill County.

8 **Q: Who is it to?**

9 A: Uh, uh, it's not to the Churchill County Sheriff's  
10 Office. It may be to, um, human resources.

11 **Q: Okay. And it's dated "December 6th, 2016," at the**  
12 **top there, right?**

13 A: Yes.

14 **Q: Okay. Do you have any knowledge that Washoe County**  
15 **ever requested any background information on Mr. Erwine from**  
16 **Churchill County?**

17 A: I don't have any knowledge about that.

18 **Q: Okay. Do you know who at Churchill County**  
19 **responded to faxes like this that would come in about former**  
20 **employees at the sheriff's office?**

21 A: Um, I don't. Um, theoretically, it would be human  
22 resources.

23 **Q: Okay. Who -- who ran the Human Resources at**  
24 **Churchill County at this time?**

25 A: Geof Stark. He still does.

1 Q: Okay. And how long has Mr. Stark been there, to  
2 your knowledge?

3 A: I don't know. He's gotta -- he's gotta be around  
4 20 years or more.

5 Q: Okay. All right. So I think we're going to skip  
6 over Exhibit 17, and I want you to look at Exhibit 18. Do you  
7 recognize this document?

8 A: I should recognize what it is, yes.

9 Q: Okay. Is that your signature at the top there?

10 A: It is.

11 Q: Is this the policy that was in force at the time  
12 Mr. Erwine was employed at -- employed at the sheriff's office?

13 A: I would anticipate so.

14 Q: Okay. Would he have been provided a copy of this  
15 when he was hired?

16 A: When he was what?

17 Q: When he was hired?

18 A: Um, I don't -- I don't specifically remember how we  
19 handled policy. I believe there was -- we had them on the, uh,  
20 um, intranet for the agency.

21 Q: Okay. Was he expected to comply with this policy?

22 A: Yes.

23 Q: All right. Let's turn to Exhibit No. 19. Do you  
24 recognize this document?

25 A: Yes. It's the same way as the last.

1 Q: Okay. So that's your signature at the top there?

2 A: Yes.

3 Q: And this would be the Use of Force policy for the  
4 jail at Churchill County at the time Mr. Erwine was employed  
5 there; is that correct?

6 A: Uh, I would expect so.

7 Q: Okay. All right. How about Exhibit 20?

8 A: Sorry. I'm not that fast at flipping through  
9 these, so --

10 Q: Oh, it's okay. Take your time.

11 A: This is another policy from the sheriff's office.

12 Q: Okay. It doesn't look like this one is signed.

13 But to your knowledge, was this the retention -- record retention  
14 maintenance policy of the sheriff's office at the time Mr. Erwine  
15 worked there?

16 A: Um, to my knowledge, yes.

17 Q: Okay. All right. I'd like you to take a look at  
18 what's been marked as Exhibit No. 21.

19 A: Okay.

20 Q: Did you review this prior to your deposition?

21 A: Um, yes. It's -- this e-mail? Yes.

22 Q: Okay. And do you think it's fair to characterize  
23 this is an e-mail from Jessica Zamora alleging some misconducts  
24 on behalf of Sergeant Summers and how he treated an inmate, Sammy  
25 Davis, at -- at the Churchill County jail?

1 A: That would be a fair characterization of the  
2 e-mail, yes.

3 Q: Were you aware of the situation at the time it was  
4 occurring?

5 MR. TROTTER: I'm sorry. I'm moving around. My  
6 back is getting stilled [sic] up, so --

7 MR. BUSBY: Oh, no. No problem. If you need a  
8 break at any time, just let me know. And we can --

9 A: Um, I was not aware of the e-mail specifically. I  
10 was aware of the allegation.

11 Q: Okay. What was your understanding of what the  
12 allegation was?

13 A: I understood that, uh, uh, officer from the Fallon  
14 police had complained to their supervisor about Sergeant Summer  
15 [sic], um, on intaking a prisoner.

16 Q: Okay. Did you receive any other complaints about  
17 Sergeant Summers at the time he was employed with the sheriff's  
18 office about how he treated inmates?

19 MS. PARKS: Objection. Relevance.

20 A: And I would not specifically off the top of my head  
21 know.

22 Q: Okay.

23 A: Um, I did handle plenty of complaints over -- I  
24 mean --

25 Q: Yeah.



1 A: It is -- it goes with the job.

2 Q: Okay. So was an investigation conducted of this  
3 complaint against Sergeant Summers?

4 A: A fact check was, yes.

5 Q: Okay. And who did the fact check?

6 A: Um, I would expect that I would've had Captain Mike  
7 Matheson do that.

8 Q: Okay.

9 A: He was -- he was over the jail.

10 Q: Okay. Do you recall whether there were any  
11 findings or conclusions that were reached about how Sammy Davis  
12 was treated by Sergeant Summers?

13 A: Not the specifics. Um, I do have an impression  
14 that it was found that it couldn't be verified what the noise was  
15 that she was hearing. And that it could've been the seat belt,  
16 um, hitting the -- they had hard plastic seats in the back of  
17 their cars. Um, I don't really know. Uh --

18 Q: Okay.

19 A: -- that's my -- that's just my recollection. But  
20 as my attorney keeps saying, I shouldn't be guessing.

21 Q: Okay. Fair enough. I'm going to play an audio  
22 clip for you. I'm going to ask the deposition agent to play an  
23 auto -- audio clip that's been marked as Exhibit 22. And after  
24 we'd listened to it, I will ask you some questions about it.  
25 Okay?

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 105

1 A: Sure.

2 MR. BUSBY: Okay. Mr. Ivey, if you could please  
3 play Exhibit 22 for the witness?

4 MR. IVEY: Yes. One second, Luke.

5 (AUDIO PLAYED)

6 Q: Okay. Sheriff Trotter, do you recognize any of the  
7 people whose voices are on that recording?

8 A: Uh, the one I could hear was Shawn Summers.

9 Q: Okay.

10 A: The others were not loud enough.

11 Q: Okay. Was that the Sergeant Summers who worked at  
12 Churchill County in the jail with Mr. Erwine?

13 A: Yes.

14 Q: Okay. And you know his voice --

15 A: Yes.

16 Q: -- because you have worked with him for a long  
17 time?

18 A: Yes.

19 Q: Okay. All right. I'm going to skip over Exhibit  
20 23 and turn to Exhibit 24.

21 A: 24, you said?

22 Q: 24. Yeah. Do you recognize this document, Sheriff  
23 Trotter?

24 A: Oh, 24. Okay.

25 Q: Yeah.

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 106

1 A: Sorry. Uh, yes. I just saw that yesterday. Um --

2 Q: Okay. Before yesterday, you've never seen this  
3 document before?

4 A: Exhibit 24? No.

5 Q: Okay. Do you see on page 2 of Exhibit 24 in  
6 paragraph 13 where it states, 'Approximately two weeks after the  
7 incident, I was told by Deputy Jabines that Deputy Erwine was  
8 terminated from his employment with the Churchill County  
9 Sheriff's Office because 'he was a rat'."?

10 A: I see that.

11 Q: Okay. Did you ever hear anyone at the Churchill  
12 County Sheriff's Office describing Mr. Erwine as a rat?

13 A: I did not.

14 Q: Okay. All right. I'd like you to take a look at  
15 what's been marked as Exhibit 25. Do you recognize this exhibit?

16 A: No. I just saw it yesterday. Um --

17 Q: Okay.

18 A: -- review.

19 Q: So can you describe for me your impressions of  
20 what's described in Exhibit 25?

21 MS. PARKS: Objection. Calls for a narrative  
22 answer. Calls for speculation as to the intent of the person  
23 drafting this affidavit.

24 A: Well, it appears to be a affidavit drafted by --  
25 apparently by Mr. Beaulieu, um, about that incident that we've

1 talked about earlier.

2 Q: Okay.

3 A: And such -- and also, uh, approximately two years  
4 after the fact.

5 Q: Okay. So do you think the information in Exhibits  
6 25 or 24, if you had had that at the time you wrote your  
7 memorandum in Exhibit 15, they may have influenced your decision  
8 to terminate Mr. Erwine?

9 MS. PARKS: Objection. Lack of foundation. Calls  
10 for speculation. Assumes facts not in evidence, including that  
11 the information in Exhibits 25 and 26 [sic] is true.

12 A: I mean, I -- I would have to, as indicated,  
13 speculate on how this would even affect it or even if these had  
14 -- would've been the same at that time.

15 Q: Okay. Well, I mean, my question is, basically, if  
16 you'd had the informations, these two affidavits, would that have  
17 influenced your decision or weighed on whether or not it was  
18 appropriate for you to fire Mr. Erwine?

19 MS. PARKS: Objection. Calls for speculation.  
20 Lack of foundation. Assumes facts not in evidence.

21 A: I would have taken these, uh, documents under  
22 consideration, but it still would be a totality of the  
23 circumstances on these specific incidents. So I can't assume how  
24 they would have mattered.

25 Q: Okay. So have you ever seen a memorandum like the

1 memorandum you authored in Exhibit 15 in a job application for  
2 anybody who's seeking to be an officer for the Churchill County  
3 Sheriff's Office?

4 A: You -- you said Exhibit 15?

5 Q: Yeah. That's your memorandum, the October 10th  
6 memorandum.

7 A: Have I ever seen that in an application for someone  
8 trying to get a job?

9 Q: Yeah. Have you ever seen an aff- -- a memorandum,  
10 similar memorandum, in anyone else's application?

11 MS. PARKS: I can't --

12 A: No. But I have also not, um --

13 MS. PARKS: Wait. Just a second, Ben. I --  
14 first, I can't hear Luke. So I need you to repeat that question.

15 MR. BUSBY: Okay. Sure.

16 Q: Have you ever seen a memorandum similar to the  
17 memorandum in Exhibit 15 --

18 MS. PARKS: Obje- --

19 Q: I'm sorry, in anybody's file who had implied --  
20 applied for employment at the Churchill County Sheriff's Office?

21 MS. PARKS: An objection. Calls for a  
22 hypothetical of this witness.

23 A: The answer is no.

24 Q: Okay. Would you agree that the information  
25 contained in that memorandum, if true, would generally preclude

1 anyone from obtaining a law enforcement job with another state  
2 agency in Nevada?

3 MS. PARKS: Objection. Calls for speculation.  
4 Improper hypothetical.

5 A: I don't know the answer to that.

6 Q: Okay. Is the information contained in your October  
7 10th memorandum complimentary of Mr. Erwine?

8 A: It's factual.

9 Q: Okay. But I'm asking you if it -- if it portrays  
10 him in a negative or positive light?

11 A: I -- I would not say it's a positive.

12 Q: Okay. So anybody looking at that, any reasonable  
13 person doing any background investigation of Mr. Erwine, having  
14 seen that memorandum, might be dubious about offering him  
15 employment as a police officer with their agency?

16 MS. PARKS: Objection. Vague and ambiguous.  
17 Calls for speculation. Improper hypothetical.

18 A: It may influence their perspective of Mr. Erwine.

19 Q: Okay. Would it influence their impression of him  
20 in a negative or positive way?

21 MS. PARKS: Same objections.

22 A: I would not say positive.

23 Q: Okay. Would you agree that it contains derogatory  
24 information about Mr. Erwine?

25 A: I would not agree to that.

1 Q: No? What do you -- what's your understanding of  
2 what the word derogatory means?

3 A: Offensive and false.

4 Q: So derogatory just doesn't mean cast in a negative  
5 light?

6 A: Well, if -- if that's the way you're going to  
7 define it, then, potentially it is derogatory. But if -- if  
8 you're --

9 Q: Okay.

10 A: -- gonna define -- if you're gonna define it as --  
11 um, it's like slander, then I would object. Uh, well, I would  
12 disagree that it is derogatory in that term, but I --

13 Q: Do you think --

14 A: -- haven't looked up the definition of derogatory.

15 Q: Okay. Do you believe that the information in the  
16 October 10th memorandum is critical of Mr. Erwine's performance  
17 at the Churchill County Sheriff's Office?

18 A: Yes.

19 Q: Okay. Do you think it reflects a -- a serious  
20 performance with Mr. Erwine in his -- his job as a detention  
21 deputy at the sheriff's office?

22 A: That memorandum reflects a couple incidents that  
23 were job-related.

24 Q: Okay. So just to be clear, is it accurate to say  
25 that your only confirmation of those -- the incidences addressed

1 in the October 10th, 2016 memorandum, was the information listed  
2 in that document; is that true?

3 A: I'm -- uh, and I -- I'm just thinking about whether  
4 there was any other information, and it's just been too long.  
5 Um, that document summarizes the information I had.

6 Q: Okay. Did you actively seek to obtain additional  
7 information about the allegations contained in the memorandum?

8 MS. PARKS: Objection. Asked and answered.

9 A: Uh, where I indicated that there was going to be an  
10 investigation, there was. It was after this memorandum was, uh,  
11 drafted.

12 MR. BUSBY: Okay. All right. I'm going to ask to  
13 take a quick break and then I'm going check my notes. And I  
14 think we're almost done. So sorry to keep you through lunch, but  
15 I think we're almost done.

16 MR. TROTTER: It's all right.

17 MR. BUSBY: Okay.

18 MR. IVEY: Okay. We're going off the record. The  
19 time is 1.09 p.m.

20 MR. IVEY: We're back on the record in the matter  
21 of Michael Erwine v. Churchill County, et al., in the deposition  
22 of Benjamin Daniel Trotter. The time is 1:14 p.m. Okay, Luke.

23 Q: Sheriff Trotter, I just have a few brief questions  
24 for you. Then we'll be done with my questions, at least. Have  
25 you taken a look at Mr. Erwine's complaint that he filed in this



1 matter?

2 A: Yes.

3 Q: Okay. Did you see the allegations involving a  
4 woman name Lacey Haberstad (phonetic)?

5 A: I'd have to remember. Um, put me in the specific  
6 page, maybe?

7 Q: Do you have the complaint in front of you?

8 A: I do have a hard copy here, yes.

9 Q: Okay. Please take a minute to review it. And just  
10 to be clear. It's the Mr. Erwine's most recent amended  
11 complaints. I mean, it's dated --

12 A: The amended -- amended jury trial demand, correct?

13 Q: Amended complaint jury -- with jury trial demand,  
14 yes.

15 A: And it's 29 pages long, correct?

16 Q: Correct.

17 A: If you would point me to the location where that  
18 is?

19 Q: Sure. Just give me a second.

20 A: Because I'm not gonna memorize the 29 pages.

21 Q: Okay.

22 A: So --

23 Q: Paragraph 15, starting on page 5.

24 A: Yes. I've -- I see that.

25 Q: Okay. Were you at any time made aware of the

1 allegations Mr. Erwine makes here regarding how Ms. Haberstad was  
2 treated?

3 A: Yes.

4 Q: Okay. Did you do -- was -- are you aware of  
5 whether any investigation ever took place into those allegations?

6 A: I know an investigation took place on those  
7 allegations.

8 Q: Okay. Do you know what the outcome of that  
9 investigation was?

10 A: No. If -- if I had Deputy Keller's personnel file,  
11 I could remember. Um, but I know he was -- it was, uh, found to  
12 be inappropriate.

13 Q: Okay. So the investigation that you're referring  
14 to confirmed Mr. Erwine allegations as to what happened with Ms.  
15 Haberstad ?

16 MS. PARKS: Objection --

17 A: I --

18 MS. PARKS: Objection. Misstates his testimony.

19 MR. TROTTER: Right.

20 A: I'm not alleging that Mr. Erwine was the reporter  
21 of this in the first place.

22 Q: Do you know who was the reporter?

23 A: I do not know. I believe it -- my understanding it  
24 was, uh -- it was Ms. Haberstad.

25 Q: Okay. Do you know the --

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 114

1 A: But I don't --

2 Q: -- substances of -- I'm sorry. Go ahead.

3 A: Uh, but I don't remember how it -- where it came  
4 from. I don't recall Mr. Erwine, um, being the source.

5 Q: Okay. Are you -- do you recall whether Ms.  
6 Haberstad reported the allegations to Mr. Erwine?

7 A: I don't recall how this was brought up.

8 Q: Okay. Are you aware of whether Mr. Erwine reported  
9 it to someone else?

10 A: I don't know how this was, uh, brought up. I just  
11 remember hearing about it and --

12 Q: Okay.

13 A: -- so --

14 Q: But your recollection is that Deputy Keller was  
15 disappointed as a result of what happened with Ms. Haberstad?

16 MS. PARKS: Objection. Misstates his testimony.

17 A: Yes. I couldn't confirm what happened, um, what  
18 the discipline was, if there was any, um, 'cause I don't have his  
19 file.

20 Q: Okay. Are you -- turn to page 6, paragraph 18.

21 A: Okay.

22 Q: There are two inmates listed there, Gillian Wickkin  
23 and Ashley Gokey (phonetic).

24 A: Okay.

25 Q: Are you familiar with Gillian Wickkin?

1 A: I'm familiar with neither of these ladies.

2 Q: Okay. Do you know if there were -- were ever any  
3 investigations that took place in the conduct [inaudible  
4 02:40:49] by Mr. Erwine against Ms. Wickkin?

5 MS. PARKS: I can't -- I can't hear your question.

6 MR. BUSBY: I'm sorry.

7 Q: Are you aware of whether there were any  
8 investigations that took place at the sheriff's office resolving  
9 -- involving Ms. Wickkin?

10 A: I am not.

11 Q: Okay. How about Ms. Gokey?

12 A: I am not. First I ever heard of anything of this  
13 sort was when I read it in this complaint.

14 Q: Okay. But you were the sheriff of Churchill County  
15 during the time at which Mr. Erwine alleges these incidents  
16 occurred, correct?

17 MS. PARKS: Objection. Asked and answered.

18 A: I was the sheriff when Mr. Erwine was employed at  
19 the sheriff's office.

20 Q: Okay. All right. Okay. In your capacity as  
21 sheriff, were you in charge of all personnel decisions at the  
22 sheriff's office regarding deputies?

23 A: Ultimately.

24 Q: Okay. Did you have total control over the hiring  
25 and firing of deputies?

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 116

1 A: Um, I didn't have to go to a board for it, yes.

2 Q: Okay.

3 A: The sheriff is fairly autonomous.

4 Q: So the County had delegated to you the authority to  
5 make these decisions about whether to retain or not to retain  
6 deputies?

7 MS. PARKS: I -- I cannot --- you're fading out,  
8 Luke. I'm sorry. I can't hear the end of your ques- --

9 MR. BUSBY: I'm terribly sorry, Kathy. I'll try  
10 again.

11 Q: So did Churchill County delegate to you, in your  
12 capacity as sheriff, responsibility to retain or not retain  
13 deputies who worked at the sheriff's office?

14 A: Yes.

15 Q: Okay. Would you set the policies as to whether to  
16 retain a sheriff's deputy or not?

17 A: It was a decision. I don't know that we had  
18 policies.

19 Q: Okay. Did you have any -- did you have a custom  
20 that you followed?

21 A: On whether to retain somebody or not?

22 Q: Yeah.

23 A: Uh, no. It was very much a case-by-case thing.

24 Q: Okay. But you were the official with final  
25 policy-making authority over personnel matters at the sheriff's

1 **department, right?**

2 MS. PARKS: Objection. Calls for a legal  
3 conclusion.

4 A: I was the sheriff. I was the department  
5 administrator. We wrote policies.

6 **Q: Okay. So is the answer to my question "yes"?**

7 MS. PARKS: Same objection.

8 A: Uh, um, could you re- -- restate the question just  
9 a second?

10 **Q: Sure. Were you the officer with final**  
11 **policy-making authority over personnel matters at the Churchill**  
12 **County Sheriff's Office when you were sheriff?**

13 MS. PARKS: Objection. Calls for a legal  
14 conclusion.

15 A: I believe I was.

16 MR. BUSBY: Okay. I have no further questions.  
17 Ms. Parks?

18 MS. PARKS: I have no questions for this witness.

19 MR. BUSBY: Okay. Sheriff Trotter --

20 MR. IVEY: Okay.

21 MR. BUSBY: Go ahead, Mark.

22 MR. IVEY: No. I was just going to conclude the  
23 deposition for you, Luke --

24 MR. BUSBY: Okay.

25 MR. IVEY: -- if that's okay? This concludes the

1 recorded deposition of Benjamin Daniel Trotter. Before going off  
2 the record, Kathy, do you want a copy of today's deposition?

3 MS. PARKS: Yes. I do.

4 MR. IVEY: Okay. We'll get that over to your  
5 office. We are going off the record. The time is 1:23 p.m.

6 (Deposition adjourned at 1:23 p.m.)  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 119

## 1 CERTIFICATE OF RECORDER

2 STATE OF NEVADA )

3 )

4 COUNTY OF WASHOE )

5

6 NAME OF CASE: MICHAEL ERWINE, PLAINTIFFS VS CHURCHILL COUNTY

7 ET.AL. DEFENDANTS

8

9 I, Mark Ivey, a duly commissioned Notary Public,  
10 authorized to administer oaths or affirmations in the State of  
11 Nevada, do hereby certify: That I recorded the foregoing  
12 deposition of the witness, Benjamin Daniel Trotter, on 12/04/2020.

13 That prior to being examined, the witness was duly sworn to  
14 testify to the truth. That deposition was recorded via audio and  
15 video pursuant to NRCP30(b)(3) and said deposition recording is a  
16 complete, true, and accurate recording of deposition testimony.  
17 A transcript was created by E-Depositions LLC to aid the audio video  
18 recording. A review of the deposition [ ] was [X] was not  
19 requested by the deponent and [ ] was [X] was not requested by a  
20 party of the action. If a review was requested, any changes  
21 communicated to me by the deponent during the period allowed are  
22 appended hereto.

23 I further certify that I am not a relative or employee of  
24 an attorney or counsel of any of the parties, nor a relative or  
25 employee of an attorney or counsel involved in said action, nor



MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 120

1 a person financially interested in the action.

2 IN WITNESS WHEREOF, I have hereunto set my hand in the City  
3 of Reno.

4   
5  
6

7 Mark Ivey

8 Notary Public

9 Appointment No. 20-1364-05  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

JOHN L. THORNDAL  
JAMES G. ARMSTRONG  
STEPHEN C. BALKENBUSH  
PAUL F. EISINGER  
CHARLES L. BURCHAM  
BRIAN K. TERRY  
ROBERT F. BALKENBUSH  
PHILIP GOODHART  
KATHERINE F. PARKS  
KEVIN R. DIAMOND  
MICHAEL C. HETTY  
GREGORY M. SCHULMAN  
MEGHAN M. GOODWIN  
EBAN M. MILMEISTER

W. RANDOLPH PATTON\*  
THIERRY V. BARKLEY\*  
JOHN D. HOOKS  
DOUGLAS J. DUESMAN  
DANIEL J. McCAIN  
CHRISTY LYN M. GALLIHER  
VINCENT M. GODINHO  
AILEEN E. COHEN\*  
HARRY J. ROSENTHAL\*  
JUSTIN H. PFREHM\*  
RYAN J. McELHINNEY\*  
MATTHEW D. PETERDY\*

Of Counsel\*



**THORNDAL  
ARMSTRONG**  
DELK BALKENBUSH & EISINGER

A PROFESSIONAL CORPORATION  
ATTORNEYS  
[www.thorndal.com](http://www.thorndal.com)

**KATHERINE F. PARKS, ESQ.**  
**RENO OFFICE**  
**[kfp@thorndal.com](mailto:kfp@thorndal.com)**

**June 8, 2021**

LAS VEGAS

1100 E. BRIDGER AVENUE  
LAS VEGAS, NV 89101  
MAILING:  
P.O. BOX 2070  
LAS VEGAS, NV 89125-2070  
(702) 366-0622  
FAX: (702) 366-0327

RENO

6590 S. MCCARRAN BLVD., SUITE B  
RENO, NV 89509  
(775) 786-2882  
FAX: (775) 786-8004

CRAIG R. DELK  
Retired Former Shareholder

JAMES J. JACKSON  
(1958-2014)


**Via electronic mail only**

Luke Busby, Esq.  
136 California Avenue #82  
Reno, NV 89509

**Re: Michael Erwine vs. Churchill County**

Dear Luke:

Enclosed for your file is a copy of the revisions to Mr. Trotter's deposition. If you have any questions, please feel free to contact me.

Yours truly,  


Katherine F. Parks

KFP:psb  
Enclosure

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 122

ERRATA SHEET

Case Name: MICHAEL ERWINE, PLAINTIFFS VS CHURCHILL COUNTY

ET.AL. DEFENDANTS

Deposition Date: 12/04/2020

Deponent: Benjamin Daniel Trotter

REASON CODES: 1. To clarify the record.

2. To conform the facts.

3. To correct transcription errors if reviewed  
with the official audio video recording. Understanding the  
transcript reviewed is not the official record and is an aide to  
the audio video recording. Transcription errors will be  
corrected to match the audio video recording.

Page 10 Line 9 Reason 3 (Non-sensical word)

From Coleman to Unknown w/o hearing recording

Page 20 Line 6 Reason 3

From Tracey to Tracy

Page 33 Line 9 Reason 3

From ... I run ... to ... I've run ...

Page 44 Line 3 Reason 3

From Here's a... to Appears that...

Page 62 Line 6 Reason 3

From shot to shock

Page 69 Line 14 Reason 1, 2 or 3

From cleploys to records

Benjamin Daniel Trotter

MICHAEL ERWINE vs TROTTER  
TROTTER BENJAMIN 12/04/2020

Page 123

1 Page 69 Line 23 Reason 2, 3  
 2 From can't to can  
 3 Page 77 Line 11-14 Reason 1, 2, 3  
 4 From Lines are Questions not to Answers  
 5 Page 96 Line 13 Reason 2  
 6 From Yes to No  
 7 Page 114 Line 15 Reason 3  
 8 From disappointed to disciplined  
 9 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_  
 10 From \_\_\_\_\_ to \_\_\_\_\_  
 11 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_  
 12 From \_\_\_\_\_ to \_\_\_\_\_  
 13 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_  
 14 From \_\_\_\_\_ to \_\_\_\_\_  
 15 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_  
 16 From \_\_\_\_\_ to \_\_\_\_\_  
 17 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_  
 18 From \_\_\_\_\_ to \_\_\_\_\_  
 19 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_  
 20 From \_\_\_\_\_ to \_\_\_\_\_  
 21 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_  
 22 From \_\_\_\_\_ to \_\_\_\_\_  
 23 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_  
 24 From \_\_\_\_\_ to \_\_\_\_\_  
 25 Benjamin Daniel Trotter